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Policy Alert

SUBJECT: Rescinding Expedited Naturalization Processing for Certain SSI Beneficiaries

Purpose

U.S. Citizenship and Immigration Services (USCIS) is rescinding policy guidance in the [USCIS Policy Manual](#) related to expedited processing of naturalization applications for certain Supplemental Security Income (SSI) beneficiaries.

Background

On December 6, 2006, a class action lawsuit¹ (“*Kaplan*”) was brought by aliens who had lost or were at risk of losing SSI benefits based on the statutory 7-year limit for receiving SSI benefits.² The plaintiffs challenged alleged delays in adjudicating their adjustment of status and naturalization applications. They claimed that these delays prevented them from becoming naturalized citizens before they lost or would lose SSI benefits.

Although aliens are generally not eligible for SSI, Congress has created a number of exceptions to this rule, including exceptions for refugees, asylees, certain aliens admitted as Amerasian immigrants, and aliens granted status as Cuban or Haitian entrants.³ Each of these groups is eligible for benefits for 7 years, starting either at the time of entry into the country or at the time the alien is granted status as a member of one of the listed groups. If an alien receiving benefits is naturalized before the expiration of his or her 7-year eligibility period, the alien may continue receiving benefits on the same basis as any other American citizen. If the alien is not naturalized, benefits are terminated after 7 years.

The plaintiffs in the case brought suit against DHS, USCIS, the Federal Bureau of Investigation (FBI), and the Social Security Administration (SSA). Subsequently, USCIS entered into a settlement agreement, which was filed in the U.S. District Court for the Eastern District of Pennsylvania. Under the settlement agreement, USCIS expedited Applications to Register Permanent Residence or Adjust Status (Form I-485) and Applications for Naturalization (Form N-400) filed by current or former SSI beneficiaries if the application had been pending with USCIS for more than 6 months. Expedited processing included requesting accelerated FBI Name Checks, as well as prioritizing any USCIS internal actions, such as the scheduling of an interview. USCIS also agreed to work with SSA to

¹ See *Kaplan v. Chertoff*, 2:06-cv-5304, (E.D. Pa. Jan. 24, 2008).

² See [8 U.S.C. 1612\(a\)\(2\)\(A\)](#).

³ See [8 U.S.C. 1612\(a\)\(2\)\(A\)](#).

identify individuals who had lost or would lose their SSI benefits within the following year and who already had a Form I-485 or Form N-400 pending with USCIS. USCIS would then expedite those cases even if the alien had not yet requested expedited processing and if the application had not been pending for 6 months. The effective date of the settlement agreement was March 5, 2008, and it remained in effect until February 5, 2011.

Subsequently, on September 30, 2008, Congress enacted the SSI Extension for Elderly and Disabled Refugees Act, which extended the SSI eligibility period for refugees, asylees, and certain other humanitarian immigrants, including victims of trafficking, from 7 years to 9 years from October 1, 2008 through September 30, 2011.⁴ The Act also exempted certain aliens from the time-limited SSI eligibility period during the 3-year window of October 1, 2008 through September 30, 2011. After this date, alien eligibility reverted back to the statutory 7-year time limit.

As the temporary extension and exemptions of the SSI Extension for Elderly and Disabled Refugees Act have ended and the terms of the *Kaplan* settlement agreement have expired, USCIS is rescinding guidance derived from the *Kaplan* settlement provisions.

This guidance, contained in Volume 12 of the Policy Manual, is effective immediately and applies to requests pending or filed on or after the publication date. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Ceases expedited processing of naturalization applications for certain Supplemental Security Income (SSI) beneficiaries.⁵

Summary of Changes

Affected Section: Volume 12 > Part B > Chapter 3, Naturalization Interview

- Removes Section E (Expediting Applications from Certain SSI Beneficiaries).

Affected Section: Volume 12 > Part D > Chapter 6, Jurisdiction, Place of Residence, and Early Filing

- Removes Section E (Expediting Applications from Certain Supplemental Security Income (SSI) Beneficiaries).

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

⁴ See Section 402(a)(M) of the Supplemental Security Income (SSI) Extension for Elderly and Disabled Refugees Act, [Pub. L. 110-328](#), 122 Stat. 3568 (September 30, 2008).

⁵ For information about general expedite requests, see the [Expedite Requests](#) webpage.

Volume 12: Citizenship and Naturalization, Part B, Naturalization Examination, Chapter 3, Naturalization Interview [[12 USCIS-PM B.3](#)] and Part D, General Naturalization Requirements, Chapter 6, Jurisdiction, Place of Residence, and Early Filing [[12 USCIS-PM D.6](#)].