



ADMINISTRATIVE RULES OF MONTANA



37.78.220 TANF: ELIGIBILITY, CITIZENSHIP REQUIREMENTS

- (1) Except as provided by this rule, only U.S. citizens and qualified aliens are eligible for TANF Cash Assistance.
- (2) A qualified alien is a noncitizen who:
 - (a) was admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act (INA) for only seven years from the date of entry;
 - (b) was granted asylum under section 208 of the INA for only seven years from the date of entry;
 - (c) has had deportation withheld under section 243(h) of the INA for only seven years from the date of entry; or
 - (d) was granted parole for at least one year under section 21(d)(5) of the INA;
 - (e) was granted conditional entry under immigration law in effect before April 1, 1980;
 - (f) is a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980, if entry occurred within the last seven years, including:
 - (i) any alien granted parole status as a Cuban/Haitian entrant; or
 - (ii) any alien granted any other special status for nationals of Cuba or Haiti; or
 - (iii) any alien who is a national of Cuba or Haiti and who:
 - (A) was paroled into the U.S., but has not acquired any other status; or
 - (B) is the subject of removal proceedings or has an application for asylum pending; and
 - (C) does not have a final order for removal entered;
 - (g) is an Amerasian immigrant who was admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988, if admitted within the last seven years, including any alien lawfully admitted for permanent residence if the alien was a resident of Vietnam on December 22, 1987 and if the alien was born in Vietnam after January 1, 1962 and before January 1, 1976; and
 - (i) was fathered by a U.S. citizen; or

- (ii) is the spouse, child, natural mother, or who acted as the mother, father or next of kin to the alien described in (2)(g)(i), if accompanying or following the alien described in (2)(g)(i) to the U.S. and if admission is necessary to maintain family unity;
- (h) is an American Indian born in Canada if at least 50% American Indian blood and considered lawfully admitted for permanent residence;
- (i) is a member of a federally recognized Indian tribe under the Indian Self Determination and Education Assistance Act and considered lawfully admitted for permanent residence;
- (j) is a battered spouse or child or a person who has been subjected to extreme cruelty in the U.S. pursuant to the requirements of 8 USC 1641(c), if:
 - (i) the applicant verifies that battery or extreme cruelty was inflicted on the applicant, applicant's child or the child applicant's parent by providing proof that a case was established by INS; and
 - (ii) there is a substantial connection between the abuse and the applicant's need for benefits; and
 - (iii) the applicant does not reside with the abuser;
- (k) is lawfully admitted to the U.S. for permanent residence and:
 - (i) the alien entered the U.S. as a refugee within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or
 - (ii) the alien was granted asylum within the last seven years and the asylee's status has changed to "lawfully admitted for permanent residence"; or
 - (iii) the alien had deportation withheld under section 243(h) of the INA within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or
 - (iv) the alien was admitted as a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980 within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or
 - (v) the alien was admitted as an Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 within the last seven years and the alien's status has changed to "lawfully admitted for permanent residence"; or
 - (vi) the alien entered the U.S. before August 22, 1996 and can be credited with 40 qualifying quarters of work, cumulated as defined in (4) and (5); or
 - (vii) the alien entered the U.S. on or after August 22, 1996 and has resided in the U.S. for five years and can be credited with 40 qualifying quarters of work, cumulated as defined in (4) and (5);
- (l) is a veteran of the U.S. Armed Forces and who received an honorable discharge not because of alienage;
- (m) is a Hmong or other Highland Lao veteran who fought on behalf of the U.S. Armed Forces during the Vietnam conflict;

- (n) is on active duty in the U.S. Army, Navy, Air Force, Marine Corps or Coast Guard and who is not on active duty for training purposes;
 - (o) is the spouse of an alien veteran or an alien on active duty as described in (2)(l) through (n);
 - (p) is the unmarried child of an alien veteran or alien on active duty as described in (2)(l) through (n); or
 - (q) is a victim of a severe form of trafficking as determined by the U.S. Department of Health and Human Services for only seven years from the date of entry.
- (3) Qualified aliens entering the U.S. on or after August 22, 1996 are not eligible for TANF cash assistance benefits for a period of five years from the date of entry unless they are:
- (a) refugees;
 - (b) asylees;
 - (c) aliens whose deportation was withheld under section 243(h) of the INA;
 - (d) honorably discharged veterans or aliens on active duty in the U.S. Armed Forces, or the spouse and/or unmarried child of honorably discharged veterans or aliens on active duty;
 - (e) Cuban/Haitian entrants as defined in section 501(e) of the Refugee Assistance Act of 1980;
 - (f) Amerasian immigrants admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988;
 - (g) enrolled members of a federally-recognized Indian tribe under section 4(e) of the Indian Self Determination and Education Assistance Act; or
 - (h) a victim of a severe form of trafficking as determined by the U.S. Department of Health and Human Services.
- (4) If the alien entered the U.S. before August 22, 1996 or five years have passed since the alien entered the U.S., the work quarter requirement may be met, subject to (5), by cumulating quarters worked by:
- (a) the alien;
 - (b) the alien's living parents (including stepparents) if the quarters were earned while the alien was under age 18;
 - (c) the alien's deceased parents (including stepparents) if the quarters were earned while the alien was under age 18; or
 - (d) the alien's spouse if the quarters were earned during the marriage and if the alien is still married to that spouse or if the spouse is deceased.
- (5) No work quarters may be credited for any period after December 31, 1996 if any of the persons listed in (4)(a) through (d) received any federal means-tested benefits during the period the work quarters were earned.
- (6) An alien who meets all financial and nonfinancial eligibility criteria is eligible to receive TANF cash assistance benefits only for a period of seven years from the date INS designates the alien as one of the following and if the alien was:
- (a) admitted to the U.S. as a refugee under section 207 of the INA; or

- (b) granted asylum under section 208 of the INA; or
 - (c) withheld from deportation under section 243(h) of the INA; or
 - (d) admitted as a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or
 - (e) admitted as an Amerasian immigrant under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.
- (7) A person must be a U.S. citizen to be eligible for nonfinancial assistance.

Authorizing statute(s): 53-2-201, 53-4-212, MCA

Implementing statute(s): 53-2-201, 53-4-211, 53-4-231, MCA

History: NEW, 1998 MAR p. 3284, Eff. 12/18/98; AMD, 2000 MAR p. 746, Eff. 3/17/00; TRANS, from SRS, 2000 MAR p. 3414; AMD, 2003 MAR p. 15, Eff. 1/17/03; AMD, 2009 MAR p. 1020, Eff. 7/1/09.