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## Program Operations Manual System (POMS)

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**TN 10 (09-15)**

### RS 02640.040 Stateless Persons

#### A. Definitions of stateless persons

In law, statelessness is the lack of any nationality, or the absence of a recognized link between an individual and any state. The United States recognizes the following two classes of stateless persons:

1. **De jure stateless** - Persons who do not have nationality in any country under the operation of its law.
2. **De facto stateless** - Persons who are legally nationals of a country, but whose situation is similar to those who are de jure stateless. De facto stateless persons are:
  - o outside the country of their nationality,
  - o denied the opportunity to return home, and
  - o no longer enjoy the country's protection and assistance.

Such persons are often refugees.

#### B. Documentation for determining stateless status

##### 1. De jure status

Any one of the following determines that a person is de jure stateless:

- a. Civil registration or a "travel document" issued by the person's country of residence showing the:
  - o holder is stateless, and
  - o issuance of the document was under the "United Nations Convention of 28 September 1954 Relating to the Status of Stateless Persons," which will be shown on or in the document;
- b. Foreign nationality legislation from a person's country of residence denying nationality to a certain group(s) and the person is a member;
- c. A document issued by officials of a person's former country of citizenship showing he or she is no longer a citizen of that country.

Once we determine that a person is de jure stateless, the person keeps this status until he or she acquires nationality of a country.

##### 2. De facto status

Determine that a person is de facto stateless if he or she:

- a. claims to be stateless,
- b. cannot establish de jure stateless status, but
- c. can establish that:
  - o he or she is outside the country of his or her nationality; and
  - o the government in the country of nationality is unable or unwilling to recognize the person's nationality; or refuses to allow the person to return home.

De facto status stays in effect only as long as the above conditions continue to exist. If, for example, the person returns to his or her country of nationality or if the person obtains nationality of another country, de facto statelessness ends.

