

DEPARTMENT OF SOCIAL SERVICES
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March 13, 1986

ALL-COUNTY INFORMATION NOTICE I-25-86

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: PROPOSED FEDERAL OFFICE OF REFUGEE RESETTLEMENT (ORR) REGULATIONS

REFERENCE:

The Federal Register of January 30, 1986 (Attachment I) contains proposed regulations which would revise existing Office of Refugee Resettlement (ORR) policy with regard to Refugee Cash Assistance, Refugee Medical Assistance, job search requirements, employment/employability services, and refugee support services.

For your information, ORR will be conducting a series of meetings to provide background information and guidance on their intent regarding the aforementioned policy changes. (See Attachment II for schedule.)

If you have any questions, please contact Mr. Fred Schack, Chief, Refugee Support Management Bureau at (916) 322-2131.

for 
CARL B. WILLIAMS
Deputy Director
Employment and Community Services Division

Attachments

cc: CWDA
ORR-SF

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Social Security Administration

45 CFR Part 400

**Refugee Resettlement Program;
Refugee Cash Assistance;
Requirements for Job Search,
Employability Services, and
Employment; Refugee Medical
Assistance; and Refugee Support
Services**

AGENCY: Social Security Administration (SSA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed regulation sets forth requirements governing refugee cash assistance, job search, employability services, and employment on the part of applicants for, and recipients of, refugee cash assistance, refugee medical assistance, and refugee support (social) services.

This regulation would complete the issuance of comprehensive regulations covering the basic operation of the State-administered Refugee Resettlement Program (RRP). Regulations covering other aspects of the program are published elsewhere in this issue of the Federal Register, covering grants to States, general administration, immigration status and identification of refugees, child welfare services, and Federal funding. An existing regulation on refugee cash and medical assistance and Federal funding may be found at 45 CFR 400.62. In addition to covering a number of aspects of the RRP not included in the previous regulations, the present proposal would revise some policies previously set forth in Action Transmittals to the States and would also make a few modifications in the existing regulations, including the final rule published elsewhere in this issue.

DATE: To assure consideration, comments should be received by April 30, 1988.

ADDRESSES: Comments should be addressed to Christie Cohagen, Office of Refugee Resettlement, Department of Health and Human Services, Room 1229 Switzer Building, Washington, DC 20201.

If you prefer, you may deliver your comments to Room 1229-A Switzer Building, 330 C Street SW., Washington, DC.

Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately one month after publication, at the above

address on Monday through Friday of each week from 9:30 a.m. to 4:00 p.m., except Federal holidays.

Because of the large number of comments expected, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments received during the comment period and will respond to them in the preamble to that rule.

FOR FURTHER INFORMATION CONTACT: Christie Cohagen, (202) 245-1059.

SUPPLEMENTARY INFORMATION:

Background

The Refugee Act of 1980 amended the Immigration and Nationality Act to revise procedures for the admission of refugees and to establish a uniform base for the provision of assistance and services to refugees in the United States regardless of their country of origin. Previously, refugees in the United States had been aided under separate programs for (1) Cuban refugees, (2) Indochinese refugees, and (3) Soviet and other non-Cuban, non-Indochinese refugees. Those programs were regarded as temporary, and, therefore, the issuance of program instructions to the States through Action Transmittals, rather than regulations, was considered appropriate. With the enactment of comprehensive authority in 1980, the RRP began the issuance of formal regulations, at 45 CFR Part 400, the first of which was published on September 9, 1980 (45 FR 59323), covering State plan and reporting requirements. Subsequent regulations covered cash and medical assistance and Federal funding, published March 12, 1982 (47 FR 10841), and the subjects cited above under Summary which are published elsewhere in this issue.

Regulatory Procedures

Under Executive Order 12291, we must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation does not meet the definition of a "major" regulation contained in the Executive Order. This regulation for the most part ratifies practices already in place and therefore would not be creating costs. To the extent that changes from current policy are proposed, the regulation would be intended to reduce costs by aiding refugees to achieve earlier employment and self-support.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 505(b)), the Secretary certifies that this rule, if promulgated, will not have a significant economic impact on a

substantial number of small entities. The rule will indirectly affect small entities because some services funded in the RRP are provided by not-for-profit institutions under contract with the States. However, nothing in the rule imposes a significant burden on these small entities, and the rule therefore does not meet the threshold for regulatory flexibility analysis.

Sections 400.11, 400.55, 400.64, 400.79, 400.82, 400.94, and 400.147 of this rule contain collection-of-information requirements. As required by the Paperwork Reduction Act of 1980, we will submit a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these reporting and recordkeeping requirements. Organizations and individuals desiring to submit comments on these collection-of-information requirements should direct them to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503. ATTN: Desk Officer for HHS/SSA.

Statutory Authority

Section 412(a)(9) of the Immigration and Nationality Act authorizes the Secretary of HHS to issue regulations needed to carry out the program

Description of the Regulation

This proposed regulation restates some current policies and modifies or augments others. The changes in policy which are proposed here have one central aim: To aid refugees in achieving earlier employment and self-support.

Throughout the Nation there is wide variation in the extent to which, and rapidly with which, refugees find employment and become self-supporting. In some States, this occurs relatively quickly; in others, a substantial portion of the refugee population may spend its first three years in the United States receiving fully federally funded welfare assistance and, after the completion of that statutory three-year period, may continue on assistance, usually financed by a combination of Federal and State funds and sometimes by local funds as well.

Refugee dependency rates, as measured by the portion of the refugee population that has been in this country less than three years and is receiving cash assistance, range from a high of over 80 percent in two States to less than 20 percent in several other States. These wide differences among States do not appear to be fully explainable by differences in the employment situation in various States, or by differences in the scope and benefit levels of existing

welfare programs, or by differences in the background, training, and work experience of the refugees themselves.

At the same time, there are substantial differences in the ways in which different States carry out the RRP. In some States, refugee services (such as English language training) are widely available outside normal working hours, refugees are referred to job opportunities soon after their arrival in the U.S., become employed, and are able to continue their training. In other States, refugee services tend to be available only during working hours, refugees are enrolled for services and training on a relatively long-term basis, are not required to seek employment, and referrals to job opportunities do not occur until much later. This regulation attempts to address these problems by including more specific requirements for the way in which the RRP is to be carried out by States and the employment-related requirements that apply to a refugee who is receiving refugee cash assistance (RCA).

Thus Subpart F, Requirements for Job Search, Employability Services, and Employment, proposes substantial changes from current requirements. Subpart F would: Require a continuing program of job search by an RCA recipient; specify that the job search requirements can be offset only by certain specific employment services which are themselves directed toward effective job search and placement; and provide that, in general, training which is offered during normal working hours cannot substitute for job search and job acceptance. These proposals are intended to give priority to the earliest possible employment and to require that priority be given to those activities by which people usually get jobs—employment services and actual contacts with potential employers. At the same time, the proposals are intended to assure that needed services are available to refugees who become employed by giving priority to the provision of those services outside normal working hours.

Subpart I, Refugee Support Services, would regroup the designation of support (social) services to fit in with the requirements of Subpart F and the current requirement (50 FR 8194, February 25, 1985) that a State use 85 percent of its ORR refugee support (social) service allocations for employment services, English language training, and case management—identified herein as "employability services."

As a result of the changes proposed in subparts F and I, we believe that most of the specific eligibility requirements for

particular services (as currently set forth in Action Transmittals SSA-AT-79-33, August 24, 1979; ORR-AT-80-1, March 26, 1980; and ORR-AT-80-2, April 28, 1980) could be dropped, simplifying the administration of the support service program for States and service providers while assuring that services would be directed toward the major objective of the program—the early employment of refugees.

We especially invite comments on the new elements contained in this proposal and encourage commenters who may take exception to aspects of the proposal to suggest alternative means of addressing the serious problems faced by refugees who are not being helped to become employed and move toward self-support under current practices.

Other changes which this proposal introduces are described in the sections which follow on the several subparts.

Subpart A—Introduction (Section 400.2)

Two changes are made in the list of definitions in § 400.2: A definition of "case management services" is inserted in the definitions in § 400.2, and these services are further addressed in §§ 400.154(j) and 400.155(g) of Subpart I. The definition of "refugee medical assistance" is updated to include references to the appropriate sections of Subpart G.

Subpart B—Grants to States for Refugee Resettlement (Sections 400.11 and 400.13)

Section 400.11(a) is revised to conform with ORR's present policy, begun in fiscal year 1985, of issuing two types of basic grants to States for the operation of the State-administered refugee program: (1) CMA grants, covering funding for cash assistance, medical assistance, the program for refugee unaccompanied minors, and related State administrative costs; and (2) support (social) services grants to fund the activities identified in Subpart I.

Section 400.11(b) is revised to require a State to submit an annual State administrative costs budget as part of its application for CMA and support services funds. This requirement is in accordance with HHS grant regulations at 45 CFR Part 74 and would use the Standard Form 424. This requirement is intended to provide ORR with information needed to assist it in carrying out its responsibility of assuring the allowability and appropriate allocation of anticipated administrative costs and their compatibility with the approved State plan.

A new § 400.13 is added on cost allocation. This provision would place in

regulatory form ORR's current cost-allocation guidelines which were issued after consultation with the States. A principal purpose of the guidelines is to assure that costs are correctly allocated between the RRP and other programs administered by the State and, within the RRP, between the CMA and support services grants. Paragraph (c) of this section would continue to permit certain overall management costs to be charged against the CMA grant. Paragraph (d) identifies the circumstances under which certain case management costs may be charged against the CMA grant, again reflecting current policy.

Subpart C—General Administration (Section 400.27)

A new paragraph (c) is added to § 400.27, "Safeguarding and sharing of information," to clarify that information concerning persons who have applied for or received assistance or services under the RRP may be released for any of the same purposes as are permissible under the AFDC program, as set forth in 45 CFR 220.50(a). Such purposes include: Any investigation, prosecution, or criminal or civil proceeding in connection with the administration of the program; any other Federal or federally assisted, needs-based assistance or service program; any audit or similar activity; and the location or apprehension of a fugitive felon.

Subpart E—Refugee Cash Assistance (§§ 400.50 through 400.64)

Subpart E proposes rules governing refugee cash assistance. The term "refugee cash assistance" refers specifically to cash assistance to needy refugees who do not meet all eligibility requirements for the programs of aid to families with dependent children (AFDC) and supplemental security income (SSI) for the aged, blind, and disabled. The provisions of this subpart do not govern the receipt of assistance by refugees who qualify for AFDC or SSI; they must meet the requirements of those programs which apply to refugees and nonrefugees alike.

Current regulations at 45 CFR 400.62 set forth the basic policies with respect to the provision of refugees cash assistance (RCA) and the extent and duration of Federal refugee program funding for RCA and other cash assistance programs for which refugees may qualify. The present regulation restates, but does not change, those rules.

The major changes proposed in this subpart relate to considering a household, rather than a family unit, as the filing unit for RCA (§ 400.63) and

requiring (rather than leaving as an option) the application of certain additional AFDC provisions to the RCA program (§ 400.64).

A. Recovery of Overpayments and Correction of Underpayments (§ 400.52)

Section 400.52 confirms current practice by applying AFDC rules when overpayments or underpayments occur.

B. Applications, Determinations of Eligibility, and Furnishing Assistance (§§ 400.55 through 400.57)

Under current policy, when a refugee applies for cash assistance a State must first determine his or her eligibility under other federally aided public assistance programs (i.e., AFDC, SSI, or—in Guam, Puerto Rico, and the Virgin Islands—old age assistance (OAA), aid to the blind (AB), aid to the aged, blind, and disable (AABD), or aid to the permanently and totally disabled (APTD)). States must comply with regulations governing applications, determinations of eligibility, and furnishing assistance under the AFDC program at 45 CFR Part 206.

If a refugee is eligible under one of the above programs, a State must provide assistance to that refugee under the appropriate program. If a refugee does not meet the categorical requirements of these other public assistance programs (i.e., family composition, the presence of children, age, disability, etc.), the State must determine eligibility for RCA.

In determining RCA eligibility, a State is required to contact an applicant's sponsor or the resettlement agency to determine the amount of assistance, if any, being provided to the refugee and to inquire whether the applicant has voluntarily quit employment or refused to accept an offer of employment within 30 consecutive days immediately prior to the date of application. This requirement ensures that States verify at the time of application that a refugee has not refused to accept an offer of employment within 30 days prior to the date of application for assistance, in accordance with current policy contained in § 400.77(a) of the proposal.

Section 400.55(d) clarifies existing policy by requiring a State to distinguish clearly, in its applications for assistance and notices to recipients, between RCA, AFDC, and GA. The purpose of this requirement is to assure that clients are appropriately informed of their eligibility or ineligibility and receive information sufficiently specific to enable them to exercise their right to appeal if they wish to do so.

C. Conditions of Eligibility for Refugee Cash Assistance (§§ 400.60 through 400.64)

Under current policy, refugees who are ineligible for AFDC, SSI, OAA, AB, AABD, or APTD, but who meet the AFDC need standard in their State of residence, after consideration of income and resources in accordance with 45 CFR 233.20(a) (3) through (11) (except that the two earned income disregards of \$30 and of \$30 plus one-third at § 233.20(a)(11)(ii)(B) are not applied), are eligible for refugee cash assistance if they have resided in the U.S. less than 18 months following their initial entry into this country. In determining financial eligibility, a State may not consider income and resources of a refugee's sponsor which are not contributed to the refugee, or a refugee's resources which are not readily accessible to the refugee—e.g., resources in the refugee's country of origin. A State may not apply to applicants for or recipients of refugee cash assistance the rule under the AFDC unemployed parents program at 45 CFR 233.100(a)(1) that generally defines unemployment as employment less than 100 hours a month. Eligible refugees receive benefits and services at levels equivalent to those provided under the State's AFDC program. This regulation would continue the current policy.

Section 400.60(a)(5) adds a requirement that a refugee provide the name of the resettlement agency which was responsible for his or her resettlement. This information is needed to enable the State to verify any assistance being provided and to determine whether the refugee has quit or refused employment, as required under § 400.55(b) (3) and (4). Section 400.60(a)(5) places on the refugee the responsibility for providing the name of the resettlement agency by making this a condition of eligibility. This requirement would not apply to asylees since persons granted asylum under section 208 of the Act do not usually have a sponsoring resettlement agency.

D. Use of Household Filing Unit (§ 400.63)

A major change is proposed in the definition of a filing unit (assistance case) under the RCA program. Under current policy, a State may, but is not required to, use a household, rather than a smaller case unit, as the filing unit for RCA. Under this proposal, the State would be required: (1) To consider as a single filing unit two or more RCA applicants or recipients living in the same household; and (2) in a household including persons other than the RCA

applicants or recipients, to take into account the needs, resources, and income (including payment received under other programs) of all persons living in the household in determining the eligibility and amount of assistance to the RCA applicants or recipients, except that the amount of the RCA payment could not exceed that which would be arrived at by considering only the RCA filing unit.

We believe that this use of the household concept will result in more fair and equitable levels of assistance which are generally more in line with assistance available to nonrefugees. The household concept is used by States in the food stamp program—including the eligibility of refugees for food stamps—and we do not believe that it will impose a burden if applied to the RCA program.

Use of the household concept will not affect the amount of assistance provided to refugees who are eligible under the programs of AFDC, SSI, GA, or adult assistance in the territories, except as might otherwise be provided in the eligibility and benefit criteria for those programs. In a household which includes such assistance units as well as RCA recipients, the amount of assistance to only the RCA recipients will be affected by the household concept.

E. Other AFDC requirements applicable to refugee cash assistance (§400.64).

This section would formalize the applicability of certain additional AFDC requirements to the RCA program with respect to budgeting methods, determining eligibility, computing the assistance payment, recovering overpayments and correcting underpayments, and identifying and dealing with fraud.

This section would also apply to RCA the AFDC requirements regarding monthly reporting. Monthly reporting is especially applicable to caseloads in which changes in employment and income are likely to occur—such as the RCA caseload which excludes the aged, blind, and disabled who are covered under SSI and the one-parent families which are covered under AFDC.

Subpart F—Requirements for Job Search, Employability Services, and Employment

Refugees who apply for or receive refugee cash assistance (RCA) must meet the requirements in Subpart F of these rules. These proposed rules are based on requirements of the Refugee Act, as amended. The rules in Subpart F apply to RCA applicants and recipients. Refugees who receive AFDC must meet

the requirements of that program rather than Subpart F.

A. Arrangements for Employability Services (§ 400.72)

Section 400.72 of the proposed regulation allows States to make certain arrangements with appropriate agencies to provide refugees with required employability services as defined in § 400.71. It also formalizes a requirement that an agency providing employability services, in order to qualify to receive referrals of employable refugees by the State agency, must agree to advise the State agency whenever a refugee fails or refuses to participate in the required services or to accept an offer of employment.

Employable applicants for or recipients of refugee cash assistance must meet the requirements in Subpart F concerning registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.

B. Registration for Employment Services, Participation in Employability Service Programs, and Acceptance of Offers of Employment (§ 400.75)

Section 400.75 generally reflects § 412(e)(2)(A) of the Immigration and Nationality Act, which, except for good cause shown, conditions the receipt of cash assistance by an employable refugee on that refugee's registration with an agency offering employment services specifically designed to assist refugees in attaining economic self-sufficiency. If no such agency is available, the refugee must register with the State or local employment service. Section 412(e)(2)(A) of the Act also conditions receipt of cash assistance on the participation of employable refugees in available and appropriate social service programs, funded under § 412(c) of the Act, which provide job or language training.

Section 400.75 clarifies the registration requirement by specifying that an "appropriate agency providing employment services" means (as defined in § 400.71) an agency whose services must include "an established program of job referral to, and job placement with, private employers" and "must be determined acceptable by the State." Previous studies have shown that some referrals for employment services were being made to agencies whose services did not include job referral and placement.

This section also requires that an employable refugee must participate in a continuing program of job search, described subsequently in § 400.80.

These proposed requirements are intended to encourage early employment.

C. Criteria for Exemption from Registration (Section 400.76)

Section 400.76 exempts certain individuals from registration for employment services and required social services because of age, full-time attendance at school or training, health, disability, or responsibility for the care of a child or another member of the household. These exemptions, which are contained in current policy, are modeled after exemptions which apply to AFDC recipients.

Inability to communicate in English does not exempt a refugee from registration.

D. Effect of Nonparticipation in Services and of Quitting Employment (§ 400.77)

Under current policy, employable refugees may not, without good cause, within 30 consecutive days prior to the date of application, or at any time when receiving refugee cash assistance, have voluntarily quit employment or refused to accept an appropriate offer of employment services, training, or employment. Section 400.77 formalizes these requirements.

E. Service Requirements for Employed RCA Recipients (Section 400.78)

A recipient of refugee cash assistance who is employed less than 30 hours a week must accept appropriate part-time English language training or other employment-related training if available.

Under current policy, a State may encourage but not require part-time English or other employment-related training if a recipient is employed full time. Section 400.78(b) would revise this to permit a State to require part-time training in this circumstance. We believe that providing this flexibility to a State is in keeping with the self-sufficiency objective of the refugee program since such training can aid a refugee who is partially supported by cash assistance to acquire additional skills which may lead to advancement, higher income, and full self-support.

Language has also been included to provide that employed recipients may not be required to accept services which interfere with their jobs.

F. Development of an Employability Plan (§ 400.79)

Section 400.79 formalizes current practice in the refugee program by requiring the State agency, or its designee, to develop an employability plan for each registrant if such a plan

has not been developed by the resettlement agency. This requirement is based on similar requirements applicable to AFDC recipients under the WIN program.

Section 400.79 clarifies current practice by requiring that the employability plan be designed to lead to the earliest possible employment and contain a definite employment goal that would be attainable in the shortest possible time period consistent with a refugee's employability and the local job market. This section also imposes a new requirement, by providing that the employability plan must enable the individual to meet the job search requirements of § 400.80.

We believe that this focus is essential to promoting early employment. Information has shown that, under existing practices, employability plans are often constructed which defer job search and employment for all or nearly all of the 18-month period of potential eligibility for RCA.

G. Job Search Requirements (§ 400.80)

Although current policy emphasizes employment and self-support and requires registration for employment services and acceptance of job offers, it does not contain specific requirements for a job search program to be carried out by RCA applicants and recipients.

Section 400.80 specifically requires an employable applicant for or recipient of refugee cash assistance to carry out a continuing job search program of at least 20 hours of employer contacts per week (including necessary travel time). The time requirement may be expressed in terms of number of employer contacts, at the discretion of the State agency.

Necessary employment services, employability assessment services, and on-the-job training (but not other types of services) may be counted against the job-search time (or number-of-contacts) requirements.

These provisions for job search are intended to reflect the primary emphasis of the resettlement program on early employment and, together with other requirements, to result in a required, focused program consisting of the services and activities necessary to achieving early job placement: Employability assessment and planning; employment services to provide the orientation, information, and guidance necessary for effective job search; referrals to employment opportunities; and contacts with potential employers until job placement is achieved.

H. Criteria for Appropriate Employability Services and Employment § 400.81).

Section 412(e)(2)(B) of the Act conditions receipt of refugee cash assistance (RCA), except for good cause shown, on a refugee's acceptance of appropriate offers of employment. Under current policy, criteria and standards adapted from regulations governing WIN (45 CFR 224.34), and referenced in § 400.81, are used by the State agency or its designee to determine if a particular job or training opportunity is appropriate.

Existing policy does not require an RCA recipient to accept a job if he or she is receiving training as part of an employability plan approved by the welfare agency. Section 400.81(c) changes current policy by requiring a refugee to accept an appropriate job offer even if it interrupts participation in a program of services unless such services are being provided on evenings or weekends. This section also prohibits the scheduling or provision of services at times which would interfere with a refugee's required job search activities. Exceptions are made for employment services, employability assessment services, and on-the-job training (as described in paragraphs (a), (b), and (c) of § 400.154) since these services are specifically directed toward effective job search and job placement, and for refugee professionals who are enrolled full-time in an approved professional recertification program intended to assist them in becoming relicensed in order to practice their professions in the United States (as described in section 400.81(b)).

I. Failure or Refusal to Carry out Job Search or to Accept Employability Services or Employment §§ 400.82 and 400.83)

Under current policy, if an employable recipient of cash assistance refuses to register for or to accept or continue an employment or training opportunity without good cause, the State agency must terminate assistance with the month of such refusal. This sanction remains in effect for 3 payment months in the first instance, and for 6 payment months in any subsequent instance. Current policy also includes a provision for hearings, as contained in § 400.83.

Under existing policy, only the individual who fails to meet the employment and service requirements is sanctioned. By referencing sanctions applicable to the employment search program under AFDC, § 400.82(b)(3) would require the State agency to designate a "principal earner" in the

filing unit (if the unit contains an employable person) and to sanction the entire filing unit based on the failure of that individual to meet requirements.

The inclusion of failure or refusal to carry out job search as a basis for sanction is also a change from current policy, reflecting the addition of job search requirements by § 400.80.

Subpart G—Refugee Medical Assistance

A State must provide a program of refugee medical assistance (RMA) in accordance with the rules in Subpart G.

A. Applications, Determinations of Eligibility, and Furnishing Assistance (Sections 400.93 and 400.94)

Under current policy, a State must first determine the eligibility of each applicant for Medicaid, complying with regulations governing applications, determinations of eligibility, and furnishing Medicaid under 42 CFR Part 435, Subpart J (in the States and the District of Columbia), and 42 CFR Part 436, Subpart J (in Guam, Puerto Rico, and the Virgin Islands). A State with a medically needy program under 42 CFR Part 435, Subpart D, must also determine a refugee's eligibility under that program.

A State must provide Medicaid to eligible refugees. If a refugee is determined ineligible for Medicaid, the State must determine eligibility for refugee medical assistance (RMA).

As set forth in the definition under section 400.2 of this part, the term "refugee medical assistance" (RMA) refers specifically to medical assistance to refugees who do not meet all eligibility requirements for Medicaid, to services provided under section 400.106 to refugees who are eligible either for RMA or for Medicaid, and to services provided under section 400.107.

Section 400.93(d) requires a State to distinguish clearly, in its applications for medical assistance and notices to recipients, between RMA and Medicaid. This is identical to the requirement concerning cash assistance at § 400.55(d).

B. Conditions of Eligibility for Refugee Medical Assistance (Sections 400.100 through 400.104)

Under current policy, a State must determine eligibility for refugee medical assistance of refugees who are ineligible for Medicaid. Recipients of refugee cash assistance are eligible for refugee medical assistance. Also, refugees who are eligible for but not receiving refugee cash assistance are eligible for refugee medical assistance, and States may not require them to actually receive or apply

for refugee cash assistance as a condition of eligibility for refugee medical assistance. Medicaid categorical eligibility requirements (family composition, age, disability, or blindness) are not applied to applicants for refugee medical assistance.

In States with Medicaid medically needy programs, to determine financial eligibility for refugee medical assistance a State must use the State's medically needy financial eligibility standards under Medicaid regulations at 42 CFR Part 435, Subpart I, and regulations governing determining income eligibility in 42 CFR 435.831, as reflected in the State's approved title XIX State Medicaid plan.

In States without medically needy programs, to determine financial eligibility for refugee medical assistance a State must use the State's AFDC need standard established under 45 CFR 233.20(a)(2) and regulations governing consideration of income and resources under the AFDC program in 45 CFR 233.20(a)(3) through (11) except that the \$30 and one-third disregard does not apply. In addition, under section 400.103 of this proposed regulation, if an applicant for refugee medical assistance in a State without a medically needy program does not meet the State's AFDC need standard, the State must allow the applicant to "spend down" to the AFDC need standard using methods for deducting incurred medical expenses in 42 CFR 435.831(c). This means that an applicant with income in excess of the AFDC need standard may deduct from his or her countable income any incurred medical expenses, thereby lowering the amount of countable income to the AFDC need standard and potentially qualifying the applicant for refugee medical assistance.

Section 400.100(a)(4), a proposed change from current policy, has been included to make clear that a State may not determine a refugee to be eligible for medical assistance if the refugee's eligibility for cash assistance has been terminated because of failure or refusal to carry out job search or to accept employability services or employment. We do not believe it would be appropriate for a refugee to continue to be eligible for either cash or medical assistance in the event of refusal to carry out employment-related requirements.

Section 400.104, a new proposal, would extend the medical assistance eligibility of an RMA recipient who became ineligible solely because of increased earnings from employment. The period of extension would be for nine months or until the refugee reached

the end of his or her 18-month period in the United States, the termination date for RMA eligibility—whichever occurred first. This RMA proposal is patterned after a Medicaid "work transition" provision enacted by section 2624 of the Deficit Reduction Act of 1984 (Pub. L. 98-369) amending section 402(a) of the Social Security Act. However, the RMA proposal differs from the Medicaid provision enacted by section 2624 in that the latter is related specifically to the termination of an AFDC income disregard which is not applied in the RCA and RMA programs; therefore the RMA proposal relates to the closely comparable situation in which eligibility results from increased earnings. The Medicaid provision also allows States to continue the eligibility extension for a total period of 15 months. Taking into account that 16 months represents a refugee's total potential eligibility for RMA, we consider it appropriate to allow in RMA only the basic 9-month extension which applies in the Medicaid program.

Thus this RMA provision would continue the RRP's established policy of generally following Medicaid provisions in the RMA program, with modifications where specific factors relate to the situation of refugees or to the nature of the refugee program requires differences.

C. Scope of Medical Services (Sections 400.105 through 400.107)

A State must provide refugees eligible for refugee medical assistance at least the same services in the same manner and to the same extent as are provided under the State's Medicaid program. If refugees need medical services which are beyond the scope of the State's Medicaid program, but which are available to destitute U.S. citizens in the State through public facilities, such as county hospitals, the State agency may provide such services to eligible refugees through public facilities in order to avoid refugees' becoming a burden on publicly funded local facilities.

Section 400.107 clarifies current policy with respect to health assessments of newly arrived refugees by specifically permitting such assessments as part of the scope of services of the RMA program if they are provided in accordance with requirements established by, and with the approval of, the Director. If such an assessment is done during a refugee's first 90 days in the United States, it could be provided as part of the RMA program without prior determination of the refugee's eligibility for RMA or Medicaid and without regard to whether the refugee is

subsequently determined eligible for either RMA or Medicaid.

Subpart I—Refugee Support Services

A State must provide refugee support services in accordance with the rules in subpart I.

A. Applications, Determinations of Eligibility, and Provision of Services; Funding and Service Priorities; and Purchase of Services (Sections 400.145 through 400.148)

Under current policy, States follow procedures established for their social service programs under title XX of the Social Security Act with respect to providing refugees with the opportunity to apply for services, determining eligibility, and providing services. States currently purchase services for refugees from public and private service providers or provide services directly. The proposed rule does not change these current practices.

Section 412(a)(6)(B) of the Immigration and Nationality Act authorizes the Director to develop, and require States to meet, "Standards, goals, and priorities . . . which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services." Under this authority, the Director previously established as a priority "the provision of English language training and employment services" (section 400.110 of the existing regulations, unchanged in this proposed rule), section 412(a)(6)(A)(ii) of the Act requires that plans submitted by States contain "a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance" (reflected in § 400.5(c) of the existing regulations). In light of the intent of the Act, the number of refugees dependent on cash assistance, and the limited funds available for training and services, §§ 400.146 and 400.147 establish funding and service priorities.

Section 400.146, reflecting current policy, requires States to use at least 85 percent of their support service grants to provide employability services (specified by § 400.154) and not more than 15 percent to provide other services (specified by § 400.155).

Previously, in a statement of program goals, priorities, and standards issued to States—first in August 1982 and with revisions in March 1984—the Director of ORR set as objectives that 85 percent of ORR support service funds be targeted for employment services and English language training and that services be focused on the earliest possible

movement of refugees from cash assistance to self-sufficiency.

Subsequently, this was established as a requirement by notice in the Federal Register (50 FR 8194, February 28, 1985) after consideration of public comments. Section 400.146 reflects this current policy. We would continue to consider waivers (under 45 CFR Part 400, Subpart K) in accordance with the following criteria stated in the Federal Register notice:

ORR will consider granting, under specific circumstances, a waiver of this provision in order to receive a waiver, a State must be able to demonstrate to the satisfaction of the Director, ORR, that two of the following three conditions exist: The cash assistance rate for time-eligible refugees in the State is below the national average for all time-eligible refugees in the U.S.; less than 85% of the State's social service allocation is sufficient to meet all employment-related needs of the State's refugees; and/or there are nonemployment-related service needs which are so extreme as to justify an allowance above the basic 15 percent. [*Idem*]

Section 400.147 proposes revisions in current policy:

Section 400.147(a) requires that a State's support service program use an appropriate portion of funds to provide services to newly arriving and recently arrived refugees. This is intended to avoid a situation, which has sometimes occurred, in which employment-directed services are concentrated on refugees around the time that their 18-month eligibility for RCA or their 36-month eligibility for fully federally funded cash assistance expires rather than at or near the time of their arrival.

Section 400.147(b) would continue the existing priority for the provision of services to cash assistance recipients. It would also require that a higher priority be given to those refugee assistance recipients who are within their first 36 months in the United States (and are therefore receiving fully federally funded cash assistance) than to those recipients who have been here for more than 36 months. This emphasis is important to achieving early employment and reducing both Federal assistance costs and State/local assistance costs that occur after the period of full Federal funding has terminated if employment has not previously been attained.

Section 400.147(c), also directed toward helping refugees to achieve early self-support, would require that support services (except for certain emergency services) be provided only to refugees who have been in the United States less than 36 months unless the State is able to demonstrate that there are "extreme

and unusual needs" among its refugees who have been here for a longer period of time.

B. Conditions of Eligibility for Refugee Support Services (Sections 400.150 through 400.152)

Under existing policy, a refugee who meets immigration status and documentation requirements may receive any social service permissible under a State's title XX program. In addition, certain specific services are identified as "refugee support services" (previously termed "refugee social services") and may be provided in accordance with eligibility criteria based on receipt of cash assistance, family income, age, and employment status. The existing criteria are as follows:

- The following refugee support services may be provided to refugees who are 16 years of age or older and who are not full-time students in elementary or secondary school, without regard to other criteria: English language training; career counseling; job orientation; and job placement and followup.
- In addition to the age/nonstudent criterion previously stated, refugees who are unemployed or receiving cash assistance may receive the following services: Employability assessment; development of an individual employability plan.
- In addition to the age/nonstudent criterion previously stated, refugees who are within the family income limit (not more than 90 percent of a State's median family income) or receiving cash assistance (but not necessarily unemployed) may receive the following services: job development; vocational training; and skills recertification.
- To receive the following, service refugees must be within the family income limit or receiving cash assistance (but other criteria do not apply): Day care; transportation; and translation/interpreter services.
- The following services may be provided to refugees without regard to any of the above eligibility criteria: Outreach; social adjustment.

Under the present proposal, employability services (section 400.154) would continue to be limited to persons 16 years of age or older who are not full-time students in elementary or secondary school, except that employment services could be provided to enable a student to obtain part-time or summer work or full-time permanent employment upon completion of schooling. In addition, title XX social

services provided under § 400.155(h) would be subject to whatever limitations apply under a State's title XX program.

The requirements for all other specific eligibility limitations would be removed (i.e., receipt of cash assistance, unemployment, and income limitations). We believe that this step—when combined with the requirements that 85 percent of support service funds be used for employability services, that an appropriate portion be used for newly arriving and recently arrived refugees, that priority be given to cash assistance recipients, and that support services be generally limited to refugees who have less than 36 months' U.S. residence—can improve the focus of support services and at the same time provide greater flexibility to, and less complexity for, States in designing and implementing their programs in order to achieve the most effective outcomes in terms of increased employment and self-support and reduced dependency.

C. Scope of Refugee Support Services (Sections 400.154 and 400.155)

Under current policy, refugees may receive any service which is permissible under a State's title XX program. In addition, refugees may receive any of a specified list of refugee support services which a State may provide regardless of whether these services are included in the State's title XX program.

Under this proposal, the scope of allowable services remains unchanged from current policy, except for the limitation in § 400.158(a), described below. In addition, "case management services" has been added to the list, recognizing an already allowable service not previously specifically identified.

However, the allowable services have been regrouped and in some instances slightly redefined in accordance with the employment objective of the program: Section 400.154.

"Employability services," identifies and defines those services directed toward refugee employment, for which at least 85 percent of a State's support service funds must be used. Section 400.155. "Other services," identifies and defines those services not necessarily specifically directed toward employment, for which not more than 15 percent of support service funds may be used.

D. Limitation and Restrictions (Section 400.156)

Under current guidance, States have been instructed to avoid duplication of services and to provide English language training generally outside normal

working hours. Section 400.156 would formalize, and add to, the existing guidance.

Section 400.156(a) prohibits a State from using support services funds to provide orientation to Western culture or basic local orientation since this is a responsibility of a refugee's sponsoring resettlement agency under its agreement with the Department of State. This specific limitation will aid in clarifying roles and averting potential duplication.

Paragraph (b) of this section formalizes the requirement that English language instruction be provided to the fullest extent feasible outside normal working hours and applies the same requirement to vocational training. This will be beneficial to refugees in becoming employed and continuing their training, particularly in light of the new rules which require a program of job search by cash assistance recipients and which provide that training offered during daytime hours on weekdays may not be a substitute for job search and employment.

Under existing practices, many training courses are offered during daytime hours, making it difficult for refugees to accept employment without having to terminate their participation in English or other training. Resettlement workers have frequently cited this as a basic problem. In addition, in the Refugee Assistance Amendments of 1982, Congress made clear its intent that English language training should be provided "in nonwork hours where possible" and that "employable refugees should be placed in jobs as soon as possible after their arrival in the United States" (section 412(a)(1) of the Act as amended by section 3(a) of the 1982 Amendments). This proposed regulation addresses these needs.

Paragraph (c) of this section requires a State to take into account services which a resettlement agency may be required to provide for a refugee and not to duplicate those services through its support service program.

Subpart J—Federal Funding

A new § 400.206 is added in Subpart J to cover funding for support services, and a new § 400.220 is added to clarify the calculation of refugee time-eligibility. Both of these sections represent existing policy.

List of Subjects in 45 CFR Part 400

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

45-CFR Part 400 is amended as follows:

1. The Table of Contents is revised to read as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

Subpart A—Introduction

Sec.

- 400.1 Basis and purpose of the program
- 400.2 Definitions.
- 400.3 [Reserved]

Subpart B—Grants to States for Refugee Resettlement

The State Plan

- 400.4 Purpose of the plan.
- 400.5 Content of the plan.
- 400.6 [Reserved]
- 400.7 Submittal of the State plan and plan amendments for Governor's review.
- 400.8 Approval of State plans and plan amendments.
- 400.9 Administrative review of decisions on approval of State plans and plan amendments.
- 400.10 [Reserved]

Award of Grants to States

- 400.11 Award of grants to States.
- 400.12 Adverse determinations concerning State grants.
- 400.13 Cost allocation.

Subpart C—General Administration

- 400.20 [Reserved]
- 400.21 [Reserved]
- 400.22 Responsibility of the State agency.
- 400.23 Fair hearings.
- 400.24 [Reserved]
- 400.25 Residency requirements.
- 400.26 [Reserved]
- 400.27 Safeguarding and sharing of information.
- 400.28 Maintenance of records and reports.

Subpart D—Immigration Status and Identification of Refugees

- 400.40 Scope.
- 400.41 Definitions.

Documentation of Refugee Status

- 400.43 Requirements for documentation of refugee status.
- 400.44 Restriction.

Subpart E—Refugee Cash Assistance

- 400.50 Basis and scope.
- 400.51 Definitions.
- 400.52 Recovery of overpayments and correction of underpayments.

Applications, Determinations of Eligibility, and Furnishing Assistance

- 400.55 Opportunity to apply for cash assistance.
- 400.56 Determination of eligibility under other programs.
- 400.57 Emergency cash assistance to refugees.

Conditions of Eligibility for Refugee Cash Assistance.

- 400.60 General eligibility requirements.
- 400.61 Consideration of income and resources.
- 400.62 Need standards and payment levels.

- 400.63 Filing unit.
- 400.64 Other AFDC requirements applicable to refugee cash assistance.

Subpart F—Requirements for Job Search, Employability Services, and Employment

- 400.70 Basis and scope.
- 400.71 Definitions.
- 400.72 Arrangements for employability services.

General Requirements

- 400.75 Registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.
- 400.76 Criteria for exemption from registration for employment services and social services.
- 400.77 Effect of quitting employment or failing or refusing to participate in required services.
- 400.78 Service requirements for employed recipients of refugee cash assistance.
- 400.79 Development of an employability plan.

Job Search Requirements.

- 400.80 Job search requirements.

Criteria for Appropriate Employability Services and Employment

- 400.81 Criteria for appropriate employability services and employment.

Failure or Refusal To Carry Out Job Search or To Accept Employability Services or Employment.

- 400.82 Failure or refusal to carry out job search or to accept employability services or employment.
- 400.83 Hearings.

Subpart G—Refugee Medical Assistance

- 400.90 Basis and scope.
- 400.91 Definitions.

Applications, Determinations of Eligibility, and Furnishing Assistance

- 400.93 Opportunity to apply for medical assistance.
- 400.94 Determination of eligibility for Medicaid.

Conditions of Eligibility for Refugee Medical Assistance

- 400.100 General eligibility requirements
- 400.101 Financial eligibility standards.
- 400.102 Consideration of income and resources.
- 400.103 Coverage of refugees who spend down to AFDC need standard.
- 400.104 Transitional coverage of recipients who receive increased earnings from employment.

Scope of Medical Services

- 400.105 Mandatory services.
- 400.106 Additional services.
- 400.107 Health assessments.

Subpart H—Child Welfare Services

- 400.110 Basis and scope.
- 400.111 Definitions.
- 400.112 Child welfare services for refugee children.
- 400.113 Duration of eligibility.

- 400.114 [Reserved]
- 400.115 Establishing legal responsibility
- 400.116 Services for unaccompanied minors
- 400.117 Provision of care and services
- 400.118 Case planning.
- 400.119 Interstate movement.
- 400.120 Reporting requirements.

Subpart I—Refugee Support Services

- 400.140 Basis and scope.
- 400.141 Definitions.

Applications, Determinations of Eligibility, and Provisions of Services

- 400.145 Opportunity to apply for services

Funding and Service Priorities

- 400.146 Use of funds.
- 400.147 Priority in provision of services.

Purchase of Services

- 400.148 Purchase of services.

Conditions of Eligibility for Refugee Support Services

- 400.150 General eligibility requirements.
- 400.152 Limitations on eligibility for specific services.

Scope of Refugee Support Services

- 400.153 Title XX social services.
- 400.154 Employability services.
- 400.155 Other services.
- 400.156 Limitations and restrictions.

Subpart J—Federal Funding

- 400.200 Scope.

Federal Funding in Expenditures for Determining Eligibility and Providing Assistance and Services

- 400.202 Extent of Federal Funding.
- 400.203 Federal Funding for cash assistance
- 400.204 Federal Funding for medical assistance.
- 400.205 Federal Funding for assistance and services for unaccompanied minors.
- 400.206 Federal Funding for support services.
- 400.207 Federal Funding for administrative costs.
- 400.208 Claims involving filing units which include both refugees and nonrefugees
- 400.209 Claims involving filing units which include refugees who have been in the United States more than 36 months.
- 400.210 Time limit for filing of State claims
- 400.220 Counting time-eligibility of refugees

Subpart K—Waivers

- 400.300 Waivers.

Authority: Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

§ 400.21 [Amended]

2. Section 400.2 is amended by alphabetically adding the definition for the term "case management services", and by revising paragraph (b) of the definition of the term "Refugee medical assistance" to read as follows:

"Case management services" means the determination of which service(s) to refer a refugee to, referral to such

service(s), and tracking of the refugee's participation in such service(s).

"Refugee medical assistance" . . . (b) services provided in accordance with sections 400.106 and 400.17 of this part.

3. Section 400.11 is amended by revising paragraphs (a) and (b)(1), by redesignating existing paragraph (b)(2) as (b)(3), and by adding new paragraphs (b)(2) and (b)(4) to read as follows:

§ 400.11 [Amended]

(a) *Quarterly grants.* Subject to the availability of funds (and in accordance with the limitations of Subpart J of this part), ORR will make two types of quarterly grants to eligible States:

(1) *Grants for cash assistance, medical assistance, and related administrative costs ("CMA grants"),* for the following purposes: Cash assistance provided by a State or local public agency under the program of aid to families with dependent children (AFDC) under part A of title IV of the Social Security Act, under the adult assistance programs (AABD, AB, APTD, or OAA) in the territories, or under section 412(e) of the Immigration and Nationality Act; foster care maintenance provided under part E of title IV of the Social Security Act; State supplementary payments under section 1616(a) of the Social Security Act or section 212 of Pub. L. 93-86; medical assistance under title XIX of the Social Security Act or under section 412(e) of the Immigration and Nationality Act; assistance and services to unaccompanied minors under section 412(d)(2)(B) of the Immigration and Nationality Act; and cash or medical assistance provided under a public assistance program established under authority other than Federal law and under which such assistance is generally available to needy individuals or families in similar circumstances within the State; and

(2) grants for support services; as set forth in this part. ORR will compute the amount of the quarterly awards based on documents submitted by the State agency in accordance with this section and such other pertinent facts as the Director may find necessary.

(b) *Form and manner of State application for grant award.* (1) *CMA grants.* For quarterly grants for cash assistance, medical assistance, and related administrative cost, including assistance and services to unaccompanied minors (hereafter, "CMA grants"), a State must submit to

the Director, or designee, yearly estimates for reimbursable costs for the fiscal year, identified by type of expense, including a State administrative costs budget, and a justification statement in support of the estimates no later than 45 days prior to the beginning of the fiscal year on a form prescribed by the Director.

(2) *Grants for refugee support services.* For quarterly grants for refugee support services, a State must submit to the Director, or designee, an annual application, including a State administrative costs budget, no later than 45 days prior to the beginning of the fiscal year on Standard Form 424 or such other form as might subsequently be prescribed by the Director.

(4) The State administrative costs budgets included under paragraphs (b)(1) and (2) must be of sufficient descriptive detail to enable determination of the allowability and allocability of the charges anticipated and the compatibility of administrative activities with the approved State plan.

4. A new § 400.13 is added in Subpart B, to read as follows:

§ 400.13 Cost allocation.

(a) A State must allocate costs, both direct and indirect, appropriately between the RRP and other programs which it administers.

(b) Within the RRP, a State must allocate costs appropriately between its CMA grant, support services grant, and any other RRP grants which it may receive, as prescribed by the Director.

(c) Certain administrative costs incurred for the overall management of the State's refugee program (e.g., development of the State plan, overall program coordination, and salary and travel costs of the State Refugee Coordinator), as identified by the Director, may be charged to the CMA grant. All other costs must be allocated between the CMA grant, support services grant, and any other RRP grants.

(d) Costs of case management services, as defined in § 400.2, may not be charged to the CMA grant except where all of the following criteria are met: (1) The case management activities are targeted to time-eligible cash/medical assistance recipients for the purpose of assisting such recipients to obtain employment and to become economically self-sufficient; (2) such case management activities are provided under formal and functional linkages with the appropriate local welfare agency and employment service

programs; and (3) such linkages include required reporting to the welfare agency when a refugee is offered a job, placed in a job, or fails to participate in the required employability services.

Subpart C—General Administration

5. A new paragraph (c) is added to existing section 400.27, to read as follows:

§ 400.27 Safeguarding and sharing of information.

(c) The disclosure of information for any purpose set forth in § 205.50(a) of this title shall be considered undertaken for a purpose directly connected with, and necessary to, the administration of the program.

6. Subpart E is revised and new Subparts F, G and I are added to read as follows:

Subpart E—Refugee Cash Assistance

§ 400.50 Basis and scope.

This subpart sets forth requirements concerning grants to States under section 412(e) of the Act for refugee cash assistance (BCA).

§ 400.51 Definitions.

For purposes of this subpart—
"Filing unit" means the individual or individuals whose needs are considered in determining eligibility for, and the amount of, an assistance payment for which FF [Federal funding] is claimed under this part.

"Household" means the individual or individuals living in a housing unit.

§ 400.52 Recovery of overpayments and correction of underpayments.

The State agency must comply with regulations at § 233.20(a)(13) of this title governing recovery of overpayments and correction of underpayments in the AFDC program.

Applications, Determinations of Eligibility, and Furnishing Assistance

§ 400.55 Opportunity to apply for cash assistance.

(a) A State must provide any individual wishing to do so an opportunity to apply for cash assistance and determine the eligibility of each applicant.

(b) In determining eligibility for cash assistance, the State must—

(1) Comply with regulations at Part 206 of this title governing applications, determinations of eligibility, and furnishing assistance under public assistance programs, as applicable to the AFDC program;

(2) Determine eligibility for other cash assistance programs in accordance with § 400.56 of this part.

(3) Verify with the applicant's sponsor or the resettlement agency the amount of financial assistance the sponsor or resettlement agency is actually providing to the applicant and count any such assistance, provided either in cash or in kind, in considering income and resources of applicants under § 400.61 of this part; and

(4) Contact the applicant's sponsor or the resettlement agency concerning offers of employment and inquire whether the applicant has voluntarily quit employment or has refused to accept an offer of employment within 30 consecutive days immediately prior to the date of application, in accordance with § 400.77(a) of this part.

(c) Notwithstanding any other provision of law, the State must notify promptly the agency (or local affiliate) which provided for the initial resettlement of a refugee whenever the refugee applies for cash assistance.

(d) In providing notice to an applicant or recipient to indicate that assistance has been authorized or that it has been denied or terminated, the State must specify the program(s) to which the notice applies, clearly distinguishing between refugee cash assistance and other programs such as AFDC and GA. For example, if a refugee applies for assistance, is determined ineligible for AFDC but eligible for refugee cash assistance, the notice to the applicant must specify clearly the determinations with respect both to AFDC and to refugee cash assistance. Similarly, to cite another example, if a recipient of refugee cash assistance is notified of termination because of reaching the time limit, and the State reviews the case file to determine possible eligibility for AFDC or GA, the notice to the recipient must indicate the result of that determination as well as the termination of refugee cash assistance.

§ 400.56 Determination of eligibility under other programs.

(a) *AFDC.* (1) The State must determine eligibility under the AFDC program for refugees who apply for cash assistance.

(2) A State must provide cash assistance under the AFDC program to all refugees who apply for and are eligible under that program.

(3) If the appropriate State agency determines that the refugee applicant is not eligible for cash assistance under the AFDC program, the State must determine eligibility for refugee cash assistance in accordance with § 400.60.

(b) *Cash assistance to the aged, blind, and disabled.* (1) *SSI.* (i) The State agency must refer refugees who are 65 years of age or older, or who are blind or disabled, promptly to the Social Security Administration, HHS, to apply for cash assistance under the SSI program.

(ii) If the State agency determines that a refugee who is 65 years of age or older, or blind or disabled, is eligible for refugee cash assistance, it must furnish such assistance until eligibility for cash assistance under the SSI program is determined, provided the conditions of eligibility for refugee cash assistance continue to be met.

(2) *OAA, AB, APTD, or AABD.* In Guam, Puerto Rico, and the Virgin Islands—(i) Eligibility for cash assistance under the OAA, AB, APTD, or AABD program must be determined for refugees who are 65 years old or older, or who are blind or disabled; and

(ii) If a refugee who is 65 years of age or older, or blind or disabled, is determined to be eligible for refugee cash assistance, such assistance must be furnished until eligibility for cash assistance under the OAA, AB, APTD, or AABD program is determined, provided the conditions of eligibility for refugee cash assistance continue to be met.

§ 400.57 Emergency cash assistance to refugees.

If the State agency determines that a refugee has an urgent need for cash assistance, it should process the application for cash assistance as quickly as possible and issue the initial payment to the refugee on an emergency basis.

Conditions of Eligibility for Refugee Cash Assistance

§ 400.60 General eligibility requirements.

(a) Eligibility for refugee cash assistance is limited to those who—

(1) Are ineligible for cash assistance under the AFDC, SSI, OAA, AB, APTD, and AABD programs but meet refugee cash assistance need standards;

(2) Meet immigration status and identification requirements in Subpart D of this part or are the dependent children of, and part of the same filing unit as, individuals who meet the requirements in Subpart D, subject to the limitation in § 400.208 of this part with respect to nonrefugee children;

(3) Meet eligibility requirements and conditions in this subpart; and

(4) Meet the requirements contained in Subpart F of this part for: Registration for and participation in employment services, including job search; acceptance of employment; and

participation in employability service programs.

(5) Provide the name of the resettlement agency which resettled them.

(6) Are not full-time students in institutions of higher education, as defined by the Director, except where such enrollment is approved by the State, or its designee, as part of an individual employability plan for a refugee under § 400.79 of this part.

(b) A refugee may be eligible for refugee cash assistance under this subpart during the 18-month period beginning with the first month the refugee entered the United States.

§ 400.61 Consideration of income and resources.

(a) In considering the income and resources of applicants for and recipients of refugee cash assistance, the State agency must apply the regulations at § 233.20(a)(3) through (11) of this title for considering income and resources of AFDC applicants, except that the State agency may not apply the earned income disregard of \$30 plus one-third of the remainder of the earnings or the disregard of \$30 set out in § 233.20(a)(11)(B) of this title.

(b) The State agency may not consider any resources remaining in the applicant's country of origin to be accessible to an applicant for or recipient of refugee cash assistance.

(c) The State agency may not consider the income and resources of a sponsor to be accessible to an applicant for or recipient of refugee cash assistance.

§ 400.62 Need standards and payment levels.

(a) In determining need for refugee cash assistance, a State agency must use the State's AFDC need standards established under § 233.20(a)(1) and (2) of this title.

(b) In determining the amount of the refugee cash assistance payment to an eligible refugee who meets the standards in paragraph (a) and applying the consideration of income and resources in § 400.61, a State must pay 100 percent of the payment level which would be appropriate for an eligible filing unit of the same size under the AFDC program.

§ 400.63 Filing unit.

(a) In a household which includes more than one applicant for or recipient of refugee cash assistance, the State agency must consider all such applicants or recipients as one filing unit.

(b) In a household which includes persons other than those who are

applicants for or recipients of refugee cash assistance, the State agency must, in determining eligibility for and amount of refugee cash assistance, take into consideration the needs, resources, and income (including counting as income any assistance received under other programs) of all persons residing in the household except that the amount of assistance provided to a refugee cash assistance recipient may not exceed the amount which would be payable if the needs, resources, and income (including counting as income any assistance received under other programs) of only the refugee cash assistance filing unit were considered.

§ 400.64 Other AFDC requirements applicable to refugee cash assistance.

In administering the program of refugee cash assistance, the State agency must also apply the following AFDC regulations in this title:

- 233.31 Budgeting methods for AFDC.
- 233.32 Payment and budget months (AFDC).
- 233.33 Determining eligibility prospectively for all payment months (AFDC).
- 233.34 Computing the assistance payment in the initial one or two months (AFDC).
- 233.35 Computing the assistance payment under retrospective budgeting after the initial one or two months (AFDC).
- 233.36 Monthly reporting (AFDC).
- 233.37 How monthly reports are treated and what notices are required (AFDC).
- 235.110 Fraud.

Subpart F—Requirements for Job Search, Employability Services, and Employment

§ 400.70 Basis and scope.

This subpart sets forth requirements for applicants for and recipients of refugee cash assistance concerning registration for employment services, participation in social services, and acceptance of appropriate employment under section 412(e)(2)(A) of the Act. A refugee who is an applicant for or recipient of refugee assistance must comply with the requirements in this subpart. (A refugee who is an applicant for or recipient of AFDC must meet the requirements of the AFDC program instead of the requirements in this subpart; a refugee who is an applicant for or recipient of GA must meet the requirements of the GA program instead of the requirements in this subpart.)

§ 400.71 Definitions.

For purposes of this subpart and subpart I—

"Appropriate agency providing employment services" means an agency providing services specified under § 400.154(a) of this part which are specifically designed to assist refugees

in becoming employed, which must include an established program of job referral to, and job placement with, private employers, and which must be determined acceptable by the State.

"Designee," when referring to the State agency's designee, means an agency designated by the State agency for the purpose of carrying out the requirements of § 400.72(a) of this subpart.

"Employability plan" means an individualized written plan for a refugee registered for employment services that sets forth a program of job search and employment services intended to result in the earliest possible employment of the refugee. Such plan may also include other employability services provided at such times as not to interfere with job search or employment.

"Employability services" means services, as specified in § 400.154 of this part, designed to enable an individual to obtain employment and to improve the employability or work skills of the individual.

"Employable" means not exempt from registration for employment services under § 400.76 of this part.

"Employment services" means the services specified in § 400.154(a) of this part.

"Registrant" means an individual who has registered for employment services under § 400.75 of this part.

§ 400.72 Arrangements for employability services.

(a) The State agency must make such arrangements as are necessary to enable refugees to meet the requirements of, and receive the employability services specified in, this subpart.

(b) If a State agency makes such arrangements with another agency or agencies, it must retain responsibility for meeting the requirements in this subpart.

(c) In order for an agency to qualify to receive referrals from the State agency of refugees required to register for employability services, such agency must agree to advise the State agency whenever such a refugee fails or refuses to participate in the required services or to accept an offer of employment.

General Requirements

§ 400.75 Registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.

(a) As a condition for receipt of refugee cash assistance, an applicant or recipient who is not exempt under section 400.76 of this subpart must, except for good cause show—

(1) Register with an "appropriate agency providing employment services," as defined in § 400.71, and participate in the employment services provided by such agency, as defined in § 400.154(a) of this part, and must carry out a continuing program of job search, as described in § 400.80.

(2) Accept at any time, from any source, an offer of employment, as determined to be appropriate by the State agency or its designee.

(3) Participate in any employability service program which provides job or language training in the area in which the refugee resides, which is funded under section 412(c) of the Act, and which is determined to be available and appropriate for that refugee; or if such a program funded under section 412(c) is not available or appropriate in the area in which the refugee resides, any other available and appropriate program in such area.

(b) The State agency must permit, but may not require, the voluntary registration for employment services of an applicant or recipient who is exempt under § 400.76 of this part.

§ 400.76 Criteria for exemption from registration for employment services and social services.

(a) The State agency must consider an applicant for or recipient of refugee cash assistance to be employable and require him or her to meet the requirements of § 400.75(a) unless the applicant or recipient is—

- (1) Under age 16.
- (2) Under age 18 and a full-time student (as defined by the State for its AFDC program); or (if the State's AFDC program extends coverage to this group) age 18 and a full-time student in secondary school or in the equivalent level of vocational or technical training (as defined by the State for its AFDC program) and reasonably expected to complete the program before reaching age 19.

(3) Ill, when determined by the State agency on the basis of medical evidence or on another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training.

(4) Incapacitated, when determined by a physician or licensed or certified psychologist and verified by the State agency, that a physical or mental impairment by itself or in conjunction with age, prevents the individual from engaging in employment or training.

(5) 65 years of age or older.

(6) Caring for another member of the household who has a physical or mental impairment which requires, an

determined by a physician or licensed or certified psychologist and verified by the State agency, care in the home on a substantially continuous basis, and no other appropriate member of the household is available.

(7) A parent or other caretaker relative of a child under age 6 who personally provides full-time care of the child with only very brief and infrequent absences from the child.

(8) Working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 work days. Or

(9) Pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the 3-month period immediately following such month.

(b) Inability to communicate in English does not exempt a refugee from registration for employment services, carrying out a job search program, and acceptance of appropriate offers of employability services and employment.

§ 400.77 Effect of quitting employment or failing or refusing to participate in required services.

(a) As a condition of eligibility for refugee cash assistance, an employable applicant may not, without good cause, within 30 consecutive calendar days immediately prior to the application for assistance (or such longer period required by § 400.82(b)(3)(ii), if applicable), have voluntarily quit employment or have refused to accept an offer of employment determined to be appropriate by the State agency or its designee, using criteria set forth in § 400.81. This requirement applies regardless of whether the quitting or refusal occurred in the State of application or in another State.

(b) As a condition of continued receipt of refugee cash assistance, an employable recipient may not, without good cause, voluntarily quit employment or fail or refuse to meet the requirements of § 400.75(a).

§ 400.78 Service requirements for employed recipients of refugee cash assistance.

(a) As a condition of continued receipt of refugee cash assistance, a recipient who is not exempt under § 400.76 of this part and who is employed less than 30 hours a week must accept part-time employability services, as available and as determined to be appropriate, using criteria set forth in § 400.81 of this part,

provided that such services must not interfere with the recipient's job.

(b) A State agency may, but is not required to, require part-time employability services if a recipient of refugee cash assistance is employed at least 30 hours a week, provided that such services must not interfere with the recipient's job.

§ 400.79 Development of an employability plan.

(a) An individual employability plan must be developed for each applicant for or recipient of refugee cash assistance who is not exempt under § 400.76 of this part.

(b) If such a plan has not been developed by the resettlement agency which sponsored the refugee, or its designee, as part of its responsibility under section 412(b)(7)(D) of the Act, then the State agency, or its designee, must develop the employability plan.

(c) The employability plan must—

(1) Enable the individual to meet the job search requirements of § 400.80 of this part;

(2) Be designed to lead to the earliest possible employment and not be structured in such a way as to discourage or delay employment or job-seeking; and

(3) Contain a definite employment goal, attainable in the shortest time period consistent with the employability of the refugee in relation to job openings in the area.

Job Search Requirements

§ 400.80 Job search requirements.

(a) An employable applicant for or recipient of refugee cash assistance must carry out a continuing job search program beginning at the time he or she files an application for assistance.

(b) Such job search program shall, except as specified in paragraph (c) of this section, comprise at least 20 hours of employer contacts per week (including the time of travel required for such purpose). The State agency may express this requirement in terms of the number of employer contacts required.

(c) The amount of time required for the receipt of employment services, employability assessment, and on-the-job training, as described in paragraphs (a), (b), and (c) of § 400.154, may be substituted for the time required for employer contacts (or the number of such contacts required).

(d) The State agency must provide for methods to ensure that requirements for participation in job search are met, including procedures enabling it to verify participation in the program.

Criteria for Appropriate Employability Services and Employment

§ 400.81 Criteria for appropriate employability services and employment.

The State agency or its designee must determine if employability services and employment are appropriate in accordance with the following criteria:

(a) The services or employment must meet the appropriate work and training criteria applied under the WIN program and contained in § 224.34 of this title, except that the reference to an "income disregard" in paragraph (b)(3) of § 224.34 is not applicable to refugee cash assistance and paragraph (b)(5)(iii) of § 224.34 does not apply.

(b) If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice his or her profession in the United States, the training may consist of full-time attendance in a college or professional training program, approved as part of the individual's employability plan by the State agency, or its designee, which does not exceed one year's duration (including any time enrolled in such program in the United States prior to the refugee's application for assistance), which is specifically intended to assist the professional in becoming relicensed in his or her profession, and which, if completed, can realistically be expected to result in such relicensing.

(c) A job offered, if determined appropriate under the requirements of this subpart, is required to be accepted by the refugee without regard to whether such job would interrupt a program of services planned or in progress unless (1) such services are provided on evenings or weekends (i.e., outside normal working hours) or (2) the refugee is enrolled full-time in a professional recertification program which meets the requirements of paragraph (b) of this section.

(d) No employability service, as designated by § 400.154 of this part, may be scheduled or provided at such time as to interfere with a refugee's required job search activities, except for employment services, employability assessment services, and on-the-job training, as described in paragraphs (a), (b), and (c) of § 400.154.

Failure or Refusal To Carry Out Job Search or To Accept Employability Services or Employment

§ 400.82 Failure or refusal to carry out job search or to accept employability services or employment

(a) *Voluntary registrant.* When a voluntary registrant—i.e., a recipient of

refugee cash assistance who is exempt from registration under § 400.76 of this part—has failed or refused to carry out job search, to participate in appropriate employability services, or to accept an appropriate offer of employment, the State agency, or its designee, must deregister the individual for 90 days from the date of determination that such failure or refusal has occurred, but the individual's cash assistance may not be affected.

(b) *Mandatory registrant.* (1) *Termination of assistance.* When, without good cause, a mandatory registrant—i.e., an employable recipient of refugee cash assistance who is not exempt from registration under § 400.76 of this part—has failed or refused to carry out job search, to participate in appropriate employability services, or to accept an appropriate offer of employment, or has voluntarily quit a job, the State must terminate assistance, in accordance with paragraphs (b) (2) and (3) of this section, with the month in which such failure or refusal occurred.

(2) *Notice of intended termination.* (i) Within two working days after determining that such failure or refusal has occurred, the State agency must mail to the registrant by registered mail notice of intended termination.

(ii) The written notice must include—
(A) An explanation of the reason for the action and the consequences of such failure or refusal; and

(B) Notice of the registrant's right to a hearing under § 400.83 of this part.

(3) *Sanctions.*
(i) The State must apply sanctions in accordance with paragraphs (1) through (3) of § 240.22(a) of this title.

(ii) The sanction applied in paragraph (b)(3)(i) of this section shall remain in effect for 3 payment months for the first such failure and 6 payment months for any subsequent such failure.

§ 400.83 Hearings.

The State must provide an applicant for or recipient of refugee cash assistance an opportunity for a hearing, using the same procedures and standards set forth in § 205.10(a) of this title, to contest a determination concerning employability, or failure or refusal to carry out job search or to accept an appropriate offer of employability services or employment, resulting in denial or termination of assistance.

Subpart G—Refugee Medical Assistance

§ 400.90 Basis and scope.

This subpart sets forth requirements concerning grants to States under

section 412(e) of the Act for refugee medical assistance (RMA), as defined at § 400.2 of this part.

§ 400.91 Definitions.

For purposes of this subpart—
"Medically needy" means individuals who are eligible for medical assistance under Medicaid regulations at 42 CFR Part 435, Subpart D.

"Spend down" means to deduct from countable income incurred medical expenses, thereby lowering the amount of countable income to a level that meets financial eligibility requirements in accordance with 42 CFR 435.831 (or, as applicable to Guam, the Virgin Islands and Puerto Rico, 42 CFR 436.831).

Applications, Determinations of Eligibility, and Furnishing Assistance

§ 400.93 Opportunity to apply for medical assistance.

(a) A State must provide any individual wishing to do so an opportunity to apply to medical assistance and must determine the eligibility of each applicant.

(b) In determining eligibility for medical assistance, the State agency must comply with regulations governing applications, determinations of eligibility, and furnishing Medicaid (including the opportunity for fair hearings) in the States and the District of Columbia under 42 CFR Part 435, Subpart J, and in Guam, Puerto Rico, and the Virgin Islands under 42 CFR Part 436, Subpart J, and 42 CFR Part 431, Subpart E.

(c) Notwithstanding any other provision of law, the State must notify promptly the agency (or local affiliate) which provided for the initial resettlement of a refugee whenever the refugee applies for medical assistance.

(d) In providing notice to an applicant or recipient to indicate that assistance has been authorized or that it has been denied or terminated, the State must specify the program(s) to which the notice applies, clearly distinguishing between refugee medical assistance and Medicaid. For example, if a refugee applies for assistance, is determined ineligible for Medicaid but eligible for refugee medical assistance, the notice must specify clearly the determinations with respect both to Medicaid and to refugee medical assistance.

§ 400.94 Determination of eligibility for Medicaid.

(a) The State must determine eligibility under its Medicaid State plan for refugees who apply for medical assistance.

(b) A State that provides Medicaid to medically needy individuals in the State under its State plan must determine a refugee applicant's eligibility for Medicaid as medically needy.

(c) A State must provide medical assistance under the Medicaid program to all refugees eligible under its State plan.

(d) If the appropriate State agency determines that the refugee applicant is not eligible for Medicaid under its State plan, the State must determine eligibility for refugee medical assistance.

Conditions of Eligibility for Refugee Medical Assistance

§ 400.100 General eligibility requirements.

(a) Eligibility for refugee medical assistance is limited to those refugees who—

(1) Are ineligible for Medicaid but meet the financial eligibility standards under § 400.101;

(2) Meet immigration status and identification requirements in Subpart D of this part or are the dependent children of, and part of the same filing unit as, individuals who meet the requirements in Subpart D, subject to the limitation in § 400.208 of this part with respect to nonrefugee children;

(3) Meet eligibility requirements and conditions in this subpart;

(4) Have not been denied, or terminated from, refugee cash assistance under § 400.82 of this part;

(5) Provide the name of the resettlement agency which resettled them; and

(6) Are not full-time students in institutions of higher education, as defined by the Director, except where such enrollment is approved by the State, or its designee, as part of an individual employability plan for a refugee under § 400.79 of this part or a plan for an unaccompanied minor in accordance with § 400.112.

(b) A refugee may be eligible for refugee medical assistance under this subpart during the 18-month period beginning with the first month the refugee entered the United States.

(c) The State agency may not require that a refugee actually receive or apply for refugee cash assistance as a condition of eligibility for refugee medical assistance.

(d) All recipients of refugee cash assistance are eligible for refugee medical assistance.

§ 400.101 Financial eligibility standards.

In determining eligibility for refugee medical assistance, the State agency must use—

(a) In States with medically needy programs under 42 CFR Part 435, Subpart D, the State's medically needy financial eligibility standards established under 42 CFR Part 435, Subpart I, and as reflected in the State's approved title XIX State Medicaid plan; and

(b) In States without a medically needy program, the State's AFDC need standards established under § 233.20(a)(2) of this title.

§ 400.102 Consideration of income and resources.

(a) Except as specified in paragraph (b) of this section, in considering financial eligibility of applicants for refugee medical assistance, the State agency must use—

(1) In States with medically needy programs, the standards governing determination of income eligibility in 42 CFR 435.831, and as reflected in the State's approved title XIX State Medicaid plan; and

(2) In States without medically needy programs, the standards governing consideration of income and resources of AFDC applicants in § 233.20(a)(3) through (11) of this title, except as specified in § 400.61(a) of this part.

(b) The State may not consider in-kind services and shelter provided to an applicant by a sponsor or resettlement agency in determining eligibility for and receipt of refugee medical assistance.

§ 400.103 Coverage of refugees who spend down to AFDC need standard.

In States without a medically needy program, if an applicant for refugee medical assistance does not meet the appropriate AFDC need standard, the State agency must allow that individual to spend down to the AFDC need standard using the methods for deducting incurred medical expenses set forth in 42 CFR 435.831(c).

§ 400.104 Transitional coverage of recipients who receive increased earnings from employment.

If a refugee who is receiving medical assistance becomes ineligible solely by reason of increased earnings from employment, the refugee's refugee medical assistance eligibility shall be extended by a period of nine months or until the refugee reaches the end of his or her 18-month period in the United States, in accordance with § 400.100(b), whichever comes first.

Scope of Medical Services

§ 400.105 Mandatory services.

In providing refugee medical assistance to refugees, a State must provide at least the same services in the

same manner and to the same extent as under the State's Medicaid program, as delineated in 42 CFR Part 440.

§ 400.106 Additional services.

If a State or local jurisdiction provides additional medical services beyond the scope of the State's Medicaid program to destitute residents of the State or locality through public facilities, such as county hospitals, the State may provide to refugees who are determined eligible under § 400.94 or 400.100 of this part the same services through public facilities.

§ 400.107 Health assessments.

(a) As part of its medical assistance program, a State may provide a health assessment to a refugee, provided—

(1) The assessment is in accordance with requirements prescribed by the Director, or his or her designee; and

(2) Written approval for the assessment program or project has been provided to the State by the Director, or designee.

(b) If such assessment is done during the first 90 days after a refugee's initial date of entry into the United States, it may be provided without prior determination of the refugee's eligibility under § 400.94 or § 400.100 of this part.

Subpart I—Refugee Support Services

§ 400.140 Basis and scope.

This subpart sets forth requirements concerning grants to States under section 412(c) of the Act for refugee support services.

§ 400.141 Definitions.

For purposes of this subpart—
"Refugee support services" means any title XX social services as defined below or any service set forth in § 400.154 or 400.155 of this subpart.

"Title XX social services" means any service which is permissible in the State under the State's annual pre-expenditure report under title XX of the Social Security Act.

Applications, Determinations of Eligibility, and Provision of Services

§ 400.145 Opportunity to apply for services.

(a) A State must provide any individual wishing to do so an opportunity to apply for services and determine the eligibility of each applicant.

(b) Except as otherwise specified in this subpart, a State must determine eligibility for and provide refugee support services specified in §§ 400.154 and 400.155 in accordance with the same procedures which it follows in its social service program under title XX of the

Social Security Act with respect to determining eligibility, acting on applications and requests for services, and providing notification of right to a hearing.

Funding and Service Priorities

§ 400.146 Use of funds.

A State must use at least 85 percent of its support service grants to provide employability services as set forth in § 400.154 of this subpart. A State may not use more than 15 percent of such grants to provide other services as set forth in § 400.155.

§ 400.147 Priority in provision of services.

(a) A State must plan its support service program and allocate its support service funds in such a manner that an appropriate portion of funds, based on population, is used to provide services to newly arriving refugees and to other refugees who have been in the United States less than one year. The portion proposed for such use must be specified and justified as part of the State's application under § 400.11(b)(2) of Subpart B.

(b) In providing employability services, a State must give priority to a refugee who is receiving cash assistance which is funded, in whole or in part, under this part.

(c) A State may not provide services under this subpart (except for emergency services under § 400.155(c)(1)) to refugees who have been in the United States for more than 36 months except to meet extreme and unusual needs to the extent that such needs, and the amount of funds proposed to address them, have been specified and justified as part of the State's application under § 400.11(b)(2) of Subpart B.

Purchase of Services

§ 400.148 Purchase of services.

A State may provide services directly or it may purchase services from public or private service providers.

Conditions of Eligibility for Refugee Support Services

§ 400.150 General eligibility requirements.

Eligibility for refugee support services is limited to those refugees who—

(a) Meet immigration status and identification requirements in Subpart D of this part;

(b) Meet other eligibility requirements and conditions in this subpart.

§ 400.152 Limitations on eligibility for specific services.

(a) A State may provide the support services defined in § 400.154 to

refugees who are 16 years of age or older and who are not full-time students in elementary or secondary school, except that such a student may be provided services under § 400.154 (a) and (b) in order to obtain part-time or temporary (e.g., summer) employment while a student or full-time permanent employment upon completion of schooling.

(b) A State may provide the support services defined in § 400.155 to refugees without eligibility limitations, except for such limitations as may apply to title XX services provided under § 400.155(h).

Scope of Refugee Support Services

§ 400.153 Title XX social services.

A State may provide the same services in the same manner and to the same extent as are permissible under the State's title XX social service program to refugees who meet the eligibility requirements applicable to services under the program.

§ 400.154 Employability services.

A State may provide the following employability services, for which at least 85 percent of a State's support service funds must be used—

(a) *Employment services*, including development of an individual employability plan, world-of-work and job orientation, job clubs, job workshops, job development, referral to job opportunities, job search, and job placement and followup.

(b) *Employability assessment services*, including aptitude and skills testing.

(c) *On-the-job training*, when such training is provided at the employment site and is expected to result in full-time, permanent, unsubsidized employment with the employer providing the training.

(d) *English language instruction*, with an emphasis on English as it relates to obtaining and retaining a job.

(e) *Vocational training*, including driver education and training when provided as part of an individual employability plan.

(f) *Skills recertification*, when such training meets the criteria for appropriate training in § 400.81(b) of this part.

(g) *Day care*, when necessary for participation in an employability service or for the acceptance or retention of employment.

(h) *Transportation*, when necessary for participation in an employability service.

(i) *Translation and interpreter services*, when necessary in connection

with employment or participation in an employability service.

(j) *Case management services*, as defined in § 400.2 of this part, for refugees who are considered employable under § 400.76, provided that such services are directed toward a refugee's attainment of employment as soon as possible after arrival in the United States.

Note.—Under circumstances specified in § 400.13(d), a State may, but is not required to, charge certain case management services to its CMA grant rather than its support services grant.)

§ 400.155 Other services.

A State may provide the following services, for which not more than 15 percent of a State's support service funds may be used—

(a) *Information and referral services*.

(b) *Outreach services*, including activities designed to familiarize refugees with available services.

(c) *Social adjustment services*, including:

(1) *Emergency services*, as follows: Assessment and short-term counseling to persons in a perceived crisis; referral to appropriate resources; and the making of arrangements for necessary services.

(2) *Health-related services*, as follows: Information; referral to appropriate resources; assistance in scheduling appointments and obtaining services; and counseling to individuals or families to help them understand and identify their physical and mental health needs and maintain or improve their physical and mental health.

(3) *Home management services*, as follows: Formal or informal instruction to individuals or families in management of household budgets, home maintenance, nutrition, housing standards, tenants' rights, and other consumer education services.

(d) *Day care*, when necessary for participation in a service other than an employability service.

(e) *Transportation*, when necessary for participation in a service other than an employability service.

(f) *Translation and interpreter services*, when necessary for a purpose other than in connection with employment or participation in an employability service.

(g) *Case management services*, when necessary for a purpose other than in connection with employment or participation in employability services.

(h) *Title XX social services*, which may be provided in the same manner and to the same extent as are

permissible under the State's title XX social service program to refugees who meet the eligibility requirements applicable to services under that program.

§ 400.156 Limitations and restrictions.

(a) A State may not use its support service funds to provide orientation services which are designed to familiarize refugees with Western culture or to provide basic local orientation since this responsibility rests with the resettlement agency which sponsors a refugee.

(b) In order to avoid interference with refugee job search and employment, English language instruction and vocational training funded under this part must be provided to the fullest extent feasible outside normal working hours.

(c) In planning and providing services under §§ 400.154 and 400.155, a State must take into account those services which a resettlement agency may be required to provide for a refugee whom it sponsors (e.g., development of an employability plan and monitoring of such plan) and not duplicate such services to such refugees.

9. Section 400.206 is added in Subpart J to read as follows:

§ 400.206 Federal funding for support services.

Federal funding is available for refugee support services as set forth in Subpart I of this part, including the reasonable and necessary identifiable administrative costs of providing such services, in accordance with allocations determined by the Director.

10. A new § 400.220 is added in Subpart J to read as follows:

§ 400.220 Counting time-eligibility of refugees.

A State may calculate the time-eligibility of a refugee under this part in either of the following ways:

(a) On the basis of calendar months, in which case the month of arrival in the United States must count as the first month; or

(b) On the basis of the actual date of arrival, in which case each month will be counted from that specific date.

(Sec. 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)))

Approved: November 6, 1985.

Margaret M. Heckler,

Secretary of the Department of Health and Human Services.

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Social Security Administration
Office of Refugee Resettlement

Region IX
50 United Nations Plaza
San Francisco CA 94102

DEPARTMENT OF HEALTH & HUMAN SERVICES



March 3, 1986

TO: Interested Parties

FROM: *Sharon M. Fujii*
Sharon M. Fujii, Regional Director
Office of Refugee Resettlement

SUBJECT: Notice of Meeting Concerning Office of Refugee Resettlement
Proposed Regulations

The January 30, 1986 issue of the Federal Register (Volume 51, Number 20, pages 3918 to 3932) contained proposed regulations which would revise existing Office of Refugee Resettlement (ORR) policy with regard to Refugee Cash Assistance, Refugee Medical Assistance, job search requirements and employment/employability services for employable refugees, and refugee support services. A copy of this Federal Register announcement is enclosed for your review.

The proposed regulations would set forth significant changes from current ORR policy in several areas, and you are encouraged to review the attachment carefully and submit any comments you have to ORR at the address indicated. As stated in the proposed regulations, comments should be received by ORR no later than April 30, 1986.

In an effort to facilitate understanding of the proposed regulations ORR is convening a series of four half-day meetings to provide background information and guidance on ORR's intent regarding the policy changes. The schedule for the meetings is as follows:

San Francisco:	
Date:	March 25, 1986
Place:	Lutheran Immigration and Refugee Services 1101 O'Farrell Street San Francisco, California
Time:	9:00 a.m. - 12:00 noon
Merced:	
Date:	March 26, 1986
Place:	Merced County Refugee Services 1707 N. Street Merced, California
Time:	9:00 a.m. - 12:00 noon

Los Angeles:

Date: March 27, 1986
Place: State Office Building
107 South Broadway, Room 1138
Los Angeles, California
Time: 9:00 a.m. - 12:00 noon

San Diego:

Date: March 28, 1986
Place: San Diego County Operations Center
1600 Pacific Highway, Room 303
San Diego, California
Time: 9:00 a.m. - 12:00 noon

Please note that these meetings are not intended to replace the formal comment procedures set forth in the announcement. Those wishing to comment on the regulations should do so in writing by April 30, 1986. However you are encouraged to attend the meeting most convenient to you, if you have an interest in a discussion concerning ORR's expectations under the proposed regulations. In addition, please share this notice and the Federal Register announcement with others who might be interested in formally commenting on the proposed regulations and attending one of the meetings.

Enclosure