



CDSS

JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



ARNOLD SCHWARZENEGGER
GOVERNOR

June 19, 2008

Regulation Package # 0208-01

CDSS MANUAL LETTER NO. EAS 08-02

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

Regulation Package # 0208-01

Effective 07/1/08

Sections 40-037, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, and 49-060

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Eligibilit_617.htm.

Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) extends eligibility for certain public social services to noncertified, noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence and other serious crimes, to the same extent as refugees.

In October 2000, the federal Trafficking Victims Protection Act (TVPA) created two new nonimmigrant visas, the "T" Visa, for victims of a severe form of human trafficking, and the "U" Visa, for victims of criminal activity as defined in federal statute, to allow these individuals to remain in the United States (U.S.) The U.S. Department of Health and Human Services, Office of Refugee Resettlement (ORR), after consultation with the U.S. Attorney General, may certify a victim of a severe form of trafficking who is willing to assist in every reasonable way with the investigation and prosecution of human traffickers; and has made a bona fide application to the Bureau of United States Citizenship and Immigration Services (USCIS) for a T Visa and the application has not been denied; or is a person for whom "continued presence" in the U.S. has been requested by law enforcement because s/he is assisting or willing to assist the U.S. Attorney General and/or other law enforcement agency in the prosecution of human traffickers.

Federal law defines noncitizen victims of serious crimes as aliens who have suffered substantial physical or mental abuse as a result of having been victims of severe criminal activity and possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

Certain federal programs provide benefits and services to refugees and victims of human trafficking who meet federal eligibility criteria. Noncertified victims of human trafficking and noncitizen victims of serious crime are not eligible for federal programs. SB 1569 provides benefits and services to the same extent as those persons eligible under the federal Refugee Act of 1980. Services include, but are not limited to the equivalent of: Refugee Cash Assistance, Refugee Medical Assistance, Refugee Employment Social Services, California Work Opportunity and Responsibility to Kids, Food Stamps, Cash Assistance Program for Immigrants, and Healthy Families Program benefits. Once the trafficking victim has been certified by ORR, he or she is eligible for federal benefits and services to the same extent as refugees.

SB 1569 required the California Department of Social Services (CDSS) to adopt regulations to implement and administer the provisions of the bill no later than July 1, 2008.

These regulations were adopted on an emergency basis and will be considered at the Department's public hearing to be held on August 13, 2008.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Eligibility and Assistance Standards Manual changes was EAS-08-01.

<u>Page(s)</u>	<u>Replace(s)</u>
8	Page 8
37.3	Insert after Page 37.2
47.1	Page 47.1
49	Page 49
57	Page 57
195	Page 195
201 through 205	Pages 201 through 205
229	Pages 229
233 and 233.1	Page 233
239.3	Page 239.3
660.15 and 660.15a	Page 660.15
660.16 through 660.18	Pages 660.16 through 660.18
660.23	Page 660.23
660.47, 660.47a, and 660.48	Page 660.47 and 660.48

Attachment

PT

**ELIGIBILITY AND ASSISTANCE STANDARDS
RECEPTION AND APPLICATION**

TABLE OF CONTENTS (Continued)

CHAPTER 40-000 IMPLEMENTATION SCHEDULE

	Section
Implementation of Regulations to Eliminate Late Monthly Reporting Penalties in the CalWORKs Program	40-031
Implementation of Deprivation and Diversion Assistance	40-032
Implementation of Voucher/Vendor Payment Regulations in the CalWORKs Program.....	40-033
Implementation of CalWORKs Drug and Fleeing Felon Provisions.....	40-034
Implementation of Regulations Pursuant to Welfare and Institutions Code Sections 11454, 11454.5 and 11495.1, Enacted by Assembly Bill (AB) 1542, (Chapter 270, Statutes of 1997) and Welfare and Institutions Code Section 11454.5, amended by Assembly Bill (AB) 2772, Chapter 902, Statutes of 1998	40-035
Implementation of Quarterly Reporting Prospective Budgeting for CalWORKs Recipients	40-036
Implementation of Benefits and Services to Noncitizen Victims of Human Trafficking, Domestic Violence, or Other Serious Crimes.....	40-037

This page is left blank intentionally.

40-036	IMPLEMENTATION OF QUARTERLY REPORTING PROSPECTIVE BUDGETING FOR CalWORKs RECIPIENTS	40-036
---------------	--	---------------

- .1 Effective Date All regulatory action implementing the provisions of Quarterly Reporting/Prospective Budgeting (QR/PB) as authorized by Assembly Bill (AB) 444 (Chapter 1022, Statutes of 2002), AB 692 (Chapter 1024, Statutes of 2002), and AB 1402 (Chapter 398, Statutes of 2003) shall become effective for recipient cases upon Quarterly Reporting becoming operative in the county in which they reside pursuant to the Director's QR/PB Declaration. Quarterly Reporting regulations include a unique regulation design which include a tandem format for the operation of both monthly and quarterly reporting systems to account for the staggered implementation dates. Regulations that become obsolete under Quarterly Reporting, are labeled as (MR). Regulations that are operative under Quarterly Reporting are labeled (QR). Regulations not labeled are applicable to both reporting systems and therefore remain unchanged. In addition, each regulation impacted by QR includes a disclaimer stating QR regulations will replace the MR regulations once QR is implemented by the county.
- .2 Divisions Impacted by Quarterly Reporting Division 22, 40, 42, 44, 47, 48, 80, 82, and 89.

Note: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 71, Assembly Bill (AB) 444 (Chapter 1022, Statutes of 2002), as amended by Section 3, AB 1402 (Chapter 398, Statutes of 2003). Reference: Sections 11265.1, 11265.2, and 11265.3, Welfare and Institutions Code; Section 70, AB 444 (Chapter 1022, Statutes of 2002); and Section 71, AB 444 (Chapter 1022, Statutes of 2002), as amended by Section 3, AB 1402 (Chapter 398, Statutes of 2003).

40-037 IMPLEMENTATION OF BENEFITS AND SERVICES TO NONCITIZEN VICTIMS OF HUMAN TRAFFICKING, DOMESTIC VIOLENCE, OR OTHER SERIOUS CRIMES 40-037

- | | | |
|----|------------------|---|
| .1 | General | These regulations extend eligibility for certain public social services, including state-funded CalWORKS, to certain noncitizen victims of trafficking, domestic violence or other serious crimes, as defined, who can demonstrate their eligibility for these programs, and to trafficking victims who are taking steps to meet eligibility conditions for federal benefits. |
| .2 | Effective Date | All regulatory action implementing the provisions authorized by the federal Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193) as Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) shall become effective for applicants and recipients July 2008. (Welfare Institutions Code Sections 13283, 14005 and 18945) |
| .3 | Sections Adopted | 40-105.26, Social Security Number Exception
42-431.23 et seq., Eligibility Requirements
42-431.3 through .5 Determining Eligibility |

NOTE: Authorized cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

40-105	APPLICANT AND RECIPIENT RESPONSIBILITY	40-105
---------------	---	---------------

.1 Assuming Responsibility Within His/Her Capabilities

During the determination of initial and continuing eligibility, the applicant or recipient shall assume as much responsibility as he/she can within his/her physical, emotional, educational, or other limitations. Within his/her capabilities, the applicant/recipient is responsible for:

- .11 Completing or participating in the completion of all documents required in the application process or in the determination of continuing eligibility.
- .12 Making available to the county all documents that are in his/her possession or available to him/her which are needed to determine eligibility or ineligibility.
- .13 Reporting all facts known to him/her which he/she believes to be material to his/her eligibility or which the county has identified to him/her as affecting eligibility.
- .14 Section 40-105.14(MR) shall become inoperative and Section 40-105.14(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

(MR) Reporting, within five calendar days of the occurrence, any change in any of these facts (see Sections 40-181.1(e)(1)(MR) and 44-315.71).

(QR) Applicants shall report within five calendar days of the occurrence, any change in any of these facts (see Section 40-181.1(e)(1)(QR)) and recipients shall report within ten calendar days of the occurrence, any change required to be reported during the quarter (see Section 44-316(QR)).
- .15 Cooperating in a quality control review. Cooperation includes, but is not limited to, attending a personal interview with the quality control reviewer and answering questions and providing information necessary to complete the quality control review.

HANDBOOK BEGINS HERE

See Chapter 40-200, Quality Control Cooperation Requirements.

HANDBOOK ENDS HERE

40-105 APPLICANT AND RECIPIENT RESPONSIBILITY (Continued)**40-105**

.16 Identifying any third party who may be liable for care and services available under the state's Title XIX state plan on behalf of the applicant/recipient or any other family member required to be in the AU under Section 82-820.3.

.161 Applicants and recipients may be exempted from cooperation requirements under certain circumstances as specified in Section 82-512.

.17 Failure to comply with these provisions shall result in a fraud penalty if the applicant or recipient is found to have committed an IPV.

.2 Social Security Number (SSN)

.21 As a condition of eligibility, each CalWORKs applicant or recipient member of the AU shall:

.211 Furnish his/her Social Security Account Number (SSN) or numbers, if more than one, within 30 days following the date of the application for assistance; or

.212 If he/she cannot furnish an SSN:

- (a) apply directly to a local office of the Social Security Administration (SSA); and submit verification of such completed application to the county within 30 days following the date of application for assistance before aid may be authorized. A completed application means an application that has been accepted by the SSA for processing; and,
- (b) furnish the SSN to the county when received.
- (c) See .221 below for a child(ren) who has been enumerated at birth through the Enumeration at Birth (EAB) Project.

HANDBOOK CONTINUES

- (c) Example: Same scenario as above, but the mother remained in the hospital until June 2 due to complications. She has through July 31 to apply for an SSN for the child and submit verification of a completed application.
- (d) NOTE: For further information, see "Beginning Date of Aid", Section 44-317.

HANDBOOK ENDS HERE

- .23 An applicant/recipient is ineligible for aid if he/she refuses to comply with the requirements of .21 above. Where the refusal relates to an otherwise eligible child, that child is ineligible for aid. (See Section 82-832.24.)
- .24 As a condition of eligibility, each AFDC-FC applicant or recipient shall have an SSN.
 - .241 For children applying for or receiving AFDC-FC, where a parent(s), legal guardian, or relative, is not available or not cooperating, the placing agency representative, on behalf of the child shall obtain or make application for the SSN.
 - (a) To satisfy the requirement specified in .24 above when the absence of identifying information prevents the placing agency representative from obtaining an SSN for an abandoned child, the eligibility case file shall contain documentation of the attempt to apply for an SSN for the child, including the date the attempt was made, and the reason the attempt was unsuccessful.
- .25 As a condition of eligibility, applicants for and recipients of AFDC shall cooperate in resolving any discrepancies regarding SSNs, such as discrepancies arising from a cross-check of agency SSN files with those of the SSA. When there is a failure to cooperate, aid shall be denied or discontinued only for the member(s) of the AU whose SSN(s) is in question.
- .26 Individuals identified in Section 42-431.23, who are state-funded, are not required to meet this requirement.

40-105	APPLICANT AND RECIPIENT RESPONSIBILITY (Continued)	40-105
---------------	---	---------------

(j) Documentation

The county shall document verification of immunization, determination of good cause or any exemption.

.5 School Attendance Requirements

(a) All children in the AU for whom school attendance is compulsory, i.e., ages 6 through 17, must attend school "regularly" as defined by the county.

(b) Verification

Recipients shall cooperate in providing routinely available documentation of school attendance of all applicable school-age children in the AU when requested by the county. Applicants are not required to submit verification of school attendance prior to being granted cash aid.

(c) Exemptions

All children in the AU for whom school attendance is compulsory must regularly attend school with the following exceptions:

- (1) A pregnant or parenting teen eligible for Cal-Learn. See Section 42-763.1.
- (2) A child subject to participating in a county school attendance demonstration projects in Merced or San Diego counties.

HANDBOOK BEGINS HERE

(3) See Section 42-719 regarding welfare-to-work plans for children 16 through 17 years of age not regularly attending school and not exempted under Section 40-105.5(c).

HANDBOOK ENDS HERE

(d) Irregular Attendance Penalty

If the county determines that good cause does not exist and the child is not exempted under Section 40-105.5(c)(2), failure of a child in the AU, for whom school attendance is compulsory, to regularly attend school pursuant to Section 40-105.5(a), shall result in a reduction in the grant by an amount equal to the following:

- (1) The needs of the parent(s)/caretaker relative in the AU if the child(ren) is under the age of 16, or
- (2) The child's needs if the child(ren) is age 16 or older.

40-105 APPLICANT AND RECIPIENT RESPONSIBILITY (Continued) 40-105

(e) Failure to Cooperate

Refusal or failure of a recipient to cooperate in providing documentation when requested shall result in aid being reduced in accordance with Section 40-105.5(b), unless the county determines good cause exists.

(f) Good Cause

The county shall determine what constitutes good cause for not attending school "regularly" and failure to cooperate.

(g) Section 40-105.5(g)(MR) shall become inoperative and Section 40-105.5(g)(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

Restoration of Aid

(MR) The needs of the parent(s)/caretaker relative or child(ren) shall be restored effective the first of the month in which verification of regular school attendance is received.

(QR) The needs of the parent(s)/caretaker relative or child(ren) shall be restored effective the first of the month following the month in which verification of regular school attendance is received (See Section 44-316.331(d)(QR)).

NOTE: Authority cited: Sections 10553, 10554, 10604, 11209, 11253.5, 11265.2, 11265.3, 11265.8, 11266, 11268, 11450.5, and 11486, Welfare and Institutions Code. Reference: Sections 10553, 10554, 10604, 11209, 11253.5, 11265.3, 11265.8, 11266, 11268, 11486, 13283, 14005.2, and 18945, Welfare and Institutions Code; Section 48200, Education Code; 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 233.10(a)(1)(iv) and 235.112(b); 45 CFR 400.43; 7 CFR 273.16(b); 8 United States Code (USC) 1182(d)(5)(B); 42 U.S.C. 402(a)(6) and 616(b); and Section 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193); California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

40-107 COUNTY RESPONSIBILITY 40-107

(a) Assisting the Applicant

The county is responsible for assisting applicants or recipients in understanding their rights and responsibilities in relation to application for aid; for evaluating the capacity of the applicants or recipients to discharge their responsibilities as set forth in Section 40-105; for assisting them as needed in establishing their eligibility and helping them to realize the maximum personal independence of which they are capable, including self-care and self-maintenance.

**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
RESIDENCE**

TABLE OF CONTENTS

CHAPTER 42-400 RESIDENCE

	Section
Residence.....	42-400
State Residence for Eligibility.....	42-401
Residence - General.....	42-403
Definition of Residence.....	.1
Duration of Residence.....	.2
Program Requirements.....	.3
Rights and Responsibilities of Applicants or Recipients.....	42-405
Rights of Residence Location.....	.1
Informing County of Residence Changes.....	.2
County Welfare Department Responsibility.....	42-406
Evidence of Residence Intention.....	42-407
Applicant or Recipient Physically Present in State.....	.1
Absence from the State.....	.2
Persons Incapable of Changing Residence.....	42-412
Deprived of Freedom of Movement.....	.1
Guardian or Conservator.....	.2
Persons on Parole.....	42-416
Persons Living on Land Leased or Owned by the United States.....	42-417
Recipients from Other States.....	42-421
California Recipients Moving to Other States.....	42-422

**NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY
RESIDENCE**

TABLE OF CONTENTS (Continued)

CHAPTER 42-400 RESIDENCE

	Section
Notification to Apply in Another State	42-423
Applications by Recipients in Other States	42-424
Citizenship and Noncitizen Status	42-430
Eligibility Requirements	42-431
Proof of Citizenship or Eligible Noncitizen Status	42-433
Cooperation1
Documentation - U.S. Citizens2
Documentation - Noncitizen3
Lack of Documentation4
Receipt of CW 6 from USCIS5
Language Fluency	42-435

NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY		
Regulations	RESIDENCE	42-422

42-415	PERSONS INCAPABLE OF CHANGING RESIDENCE	42-415
---------------	--	---------------

.1 Deprived of Freedom of Movement

The place of residence for persons who are deprived by court action of freedom of movement remains the same as at the time of the court action.

.2 Guardian or Conservator

The place of residence for one for whom there is a court appointed guardian or conservator of the person may be changed by decision of the guardian or conservator accompanied by removal of the ward or conservatee to another place.

42-416	PERSONS ON PAROLE	42-416
---------------	--------------------------	---------------

Persons on parole from correctional institutions may by intent establish residence.

42-417	PERSONS LIVING ON LAND LEASED OR OWNED BY THE UNITED STATES	42-417
---------------	--	---------------

Persons living within the boundaries of California on land leased by United States □ agencies from the state, its political subdivisions, or individuals, or on land owned by the United States, may by intent establish residence in the state.

42-421	RECIPIENTS FROM OTHER STATES	42-421
---------------	-------------------------------------	---------------

Recipients of categorical aid from other states who move to California with the intent to make their homes here shall be granted aid promptly, if otherwise eligible. County welfare departments shall work out cooperative arrangements with the other state to preclude any break in the receipt of assistance and to avoid the duplication of aid payments from two states.

42-422	CALIFORNIA RECIPIENTS MOVING TO OTHER STATES	42-422
---------------	---	---------------

Recipients of categorical aid from California who move to another state and intend to make their homes there shall have aid discontinued from California immediately upon having aid granted by the other state.

42-423 NOTIFICATION TO APPLY IN ANOTHER STATE

42-423

The county welfare department shall give written notification to all recipients who are living out of the state to immediately apply for aid in the other state unless intent to return to California is clearly established and if the intent is to return to California, that application need not be made in the other state but California welfare regulations continue to apply to them. The notice shall indicate that aid shall be immediately discontinued unless the recipient responds within thirty days, indicating either that application has been made in the other state or that California residence is being retained.

42-424 APPLICATIONS BY RECIPIENTS IN OTHER STATES

42-424

When notification is received by the county from the recipient that application for aid is being made in the other state, direct communication with the appropriate state or local welfare department in the other state shall be initiated to coordinate the discontinuance of aid from California and the granting of aid by the other state. However, pursuant to W&IC Section 11103, aid shall not be continued by California beyond the end of the month following that in which the recipient applies for aid in the other state. If the person is not eligible for aid in the other state, aid shall be discontinued immediately upon notification of this by the person or the other state.

42-430 CITIZENSHIP AND NONCITIZEN STATUS

42-430

Only citizens of the United States and certain categories of noncitizens are eligible for CalWORKs. Citizens must prove their citizenship and noncitizens must prove their eligible noncitizen status. Aid shall not be authorized until eligible noncitizen status is verified.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

42-431 ELIGIBILITY REQUIREMENTS

42-431

As suggested in Section 42-430, to be eligible for assistance an applicant or recipient must be a California resident who is either:

- .1 A citizen of the United States (defined for eligibility determination purposes to include persons who, though not United States citizens, are nationals of the United States by reason of their birth in certain unincorporated United States territories such as American Samoa or the American Virgin Islands), or
- .2 A noncitizen who is:
 - .21 Lawfully admitted for permanent residence; or
 - .22 Permanently residing in the U.S. under color of law, including:

42-431 **ELIGIBILITY REQUIREMENTS (Continued)** **42-431**

- .221 Aliens lawfully present in the U.S. as a result of the application of the following provisions of the Immigration and Nationality Act.
 - a. Section 207(c), after March 31, 1980 - Aliens Admitted as Refugees.
 - b. Section 208 - Aliens Granted Political Asylum by the Attorney General.
 - c. Section 212(d)(5) - Aliens Granted Temporary Parole Status by the Attorney General.
- .222 Aliens granted status as Conditional Entrant Refugees pursuant to Section 203(a)(7) of the Immigration and Nationality Act in effect prior to April 1, 1980.
- .223 Aliens granted indefinite voluntary departure in lieu of deportation.
- .224 Aliens granted an indefinite stay of deportation.
- .23 A victim of trafficking, domestic violence or other serious crimes granted eligibility for certain public social services under the Trafficking and Crime Victims Assistance Program (TCVAP).
 - .231 The CWD must determine the status of individuals applying for benefits as victims of human trafficking, domestic violence or other serious crimes.

HANDBOOK BEGINS HERE

- a. Severe forms of human trafficking are defined in the U.S. Code, Title 22, Section 7102 (8) as: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person
- b. Sections 1101(a)(15)(U)(i) and (iii) of Title 8 of the U.S. Code define noncitizen victims of serious crimes as aliens who:
 - (1) Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving, or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury or attempt; conspiracy or solicitation to commit any of the above mentioned crimes; and,

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (2) Possess information concerning criminal activity (or in case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and
- (3) Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

HANDBOOK ENDS HERE

- .3 Eligible noncitizen trafficking or serious crime victims who meet all other eligibility criteria for cash assistance shall be aided under the CalWORKS program. See MPP Section 40-105.26 for SSN exception.
 - .31 If not otherwise eligible under the CalWORKS program requirements, these individuals shall have their eligibility determined under the Trafficking and Crime Victims Assistance Program (TCVAP).
 - .32 For purpose of determining eligibility as a victim of human trafficking (Section 42-431.23), the CWD shall consider all relevant and credible evidence. A sworn statement by a victim or a representative, if the victim is unable to competently swear, shall be sufficient to verify trafficking status, if at least one item of additional evidence is provided. This evidence includes, but is not limited to the following:
 - .321 Police, government agency, or court records or files;
 - .322 News articles;
 - .323 Documentation from a social services, trafficking or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;
 - .324 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;
 - .325 Physical evidence;
 - .326 A copy of a completed visa application;
 - .327 Written notice from United States Citizenship and Immigration Services (USCIS) of receipt of the visa application.

42-431 ELIGIBILITY REQUIREMENTS (Continued) 42-431

.33 If the victim cannot provide additional evidence, a sworn statement shall be sufficient if the county makes a determination that the applicant appears to be credible.

HANDBOOK BEGINS HERE

.331 The CWD may use a generic "under penalty of perjury" form for the sworn statement that contains the applicant's declaration that s/he is a victim of human trafficking.

.332 The credibility of an applicant for purposes of accepting his/her sworn statement of trafficking status may be determined by applying the same standard used when determining credibility in domestic violence cases as defined in Section 42-712.12. The sworn statement is acceptable as long as there is an independent reasonable basis for finding the applicant credible.

HANDBOOK ENDS HERE

.4 Determination of Trafficking Victim's Eligibility for Benefits and Services

.41 Once it has been determined that the applicant meets the definition of a victim of human trafficking, the CWD must verify that the applicant:

.411 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or

.412 Is preparing to file an application for a T Visa; or

.413 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or

.414 Is a person for whom "continued presence" in the U.S. has been requested by law enforcement because s/he is assisting or willing to assist the U.S. Attorney General in the prosecution of human traffickers.

HANDBOOK BEGINS HERE

.42 The following documentation can be used in determining whether an applicant has filed or is preparing to file for a T Visa:

.421 A confirmation receipt or letter from USCIS verifying an application has been filed; or

.422 A copy of the application for a T Visa (form I-914); or

HANDBOOK CONTINUES

HANDBOOK CONTINUES

.423 If an applicant has not yet filed for a T Visa, the applicant's statement that he or she intends to file or is taking steps to become federally eligible (e.g., working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.) will be acceptable.

- (a) Documentation could also include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who have assisted or are assisting the victim with the T Visa application or steps to becoming eligible.

.43 "Continued Presence" is a status that allows trafficking victims assisting law enforcement to remain in the country during the course of a criminal investigation.

HANDBOOK ENDS HERE

.44 Eligibility for state-funded services for trafficking victims shall be terminated if:

.441 The recipient has a final administrative denial of a T Visa application; or

- (a) "Final Administrative Denial" means that an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first.

.442 The recipient has not applied for a T Visa within one year of the date of the CalWORKs application; or

.443 A request on behalf of the recipient for continued presence has not been made within one year of the date of CalWORKs application; or

.444 The recipient is issued a T Visa.

.45 When a trafficking recipient who is otherwise eligible receives his/her T Visa, the case is reviewed for Temporary Assistance For Needy Families (TANF) eligibility and application for SSN must be made in accordance with Section 40-105.21.

.5 Determination of Eligibility for Benefits and Services for Victims of Domestic Violence or Other Serious Crimes

.51 State-funded services for noncitizen victims of domestic violence or other serious crimes are available only when a request with USCIS for a U Visa has been filed, if otherwise eligible. To be eligible under this section, the CWD must verify that these applicants:

.511 Have filed a formal application for U Visa (Form I-918 and required supplements) with USCIS for status under Section 1101(a)(15)(U)(i) or (ii) of the Title 8 of U.S. Code.

42-431 ELIGIBILITY REQUIREMENTS (Continued) 42-431

HANDBOOK BEGINS HERE

- .52 Acceptable documentation for verifying that an application for a U Visa has been filed includes, but is not limited to:
 - .521 A confirmation receipt or letter from USCIS verifying that a request has been filed; or
 - .522 The Notice of Action (form I-797) approving a U Visa; or
 - .523 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or
 - .524 A copy of the Petition for U Nonimmigrant status (Form I-918)

HANDBOOK ENDS HERE

- .53 Eligibility for state-funded services will continue until the recipient has a final administrative denial, as defined in Section 42-431.441(a), of a U Visa application or when the 60-month program limitation has been reached, whichever comes first.

NOTE: Authority cited: Sections 10553 and 10554, Welfare Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; the Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

42-433 PROOF OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS 42-433

A citizen must prove his/her citizenship to be eligible, as provided in Section 42-433.2. A noncitizen must prove that he/she is in one of the eligible categories described in Section 42-431.2 above, by presenting the appropriate documentation described in Section 42-433.31 below.

.1 Cooperation

Every applicant and recipient shall provide all information necessary to determine his/her citizenship or noncitizen status. An applicant or recipient whose citizenship or noncitizen status is evidenced by a document issued by the United States Citizenship and Immigration Services (USCIS) (e.g., a naturalized citizen or person whose American citizenship is derived from the citizenship of another person) must cooperate with USCIS when the county desires that his/her documentation be verified by USCIS (as when the documentation presented is believed by the county to be of doubtful authenticity).

Any applicant or recipient who refuses to cooperate in the verification of his/her status shall not be eligible. See Sections 40-105 and 40-157.3.

42-433 PROOF OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (Continued) 42-433

.2 Documentation -- U.S. Citizens

- .21 United States Citizenship as defined in Section 42-431.1 shall be documented by a birth certificate, or similar proof of birth in the United States or United States Territory, U.S. passport, certificate of citizenship or naturalization provided by INS, or an identification card for use of a resident citizen in the United States (INS Form I-179 or I-197). If such evidence is not available, the applicant shall state the reason and submit other evidence which proves his/her birth in the United States or United States Territory, or his/her citizenship. Examples of other evidence: documents which show the date and place of the applicant's birth such as confirmation papers or church record of confirmation, school records, Indian agency records (if applicable), adoption decree (if birth in the United States or United States Territory is shown), copy of discharge from military service, marriage certificate, or affidavits, or declarations made under penalty of perjury, by persons with direct knowledge of (1) the date and place of the applicant's birth in the United States, or (2) the U.S. citizenship of the applicant's parents, or (3) facts concerning the applicant which would not exist if he/she were not a citizen.

- .22 An otherwise eligible person who states on the CA 2 that he/she is a United States citizen, but who cannot provide the documentation or other proof specified in .21 above shall be eligible in the absence of any conflicting evidence, for aid pending verification of citizenship for a period up to 90 days after the date of application, (restoration, or reapplication) pending verification of his/her status. For persons receiving aid, as of the effective date of these regulations, whose only proof of citizenship was a certificate of registration to vote, the county shall continue aid pending verification of status for up to 90 days after the date of the next redetermination or for up to 90 days after the date verification is requested if earlier. Efforts to obtain satisfactory documentation shall be undertaken by the recipient in this period (see Section 40-157.21). At the end of 90 days, aid to the recipient shall be terminated unless the county in assisting the recipient, determines an extension of time is necessary to obtain documentation. The extension of time shall be appropriate to the particular situation, but in no event shall extend beyond the next annual redetermination date. At that time, if no satisfactory proof of citizenship can be obtained, the recipient shall be terminated from aid.

- .23 Aid to a person receiving aid pending verification of citizenship under .22 above shall be terminated if during the period of documentation gathering:

42-433 PROOF OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (Continued) 42-433

.231 He/she refuses to cooperate with the county and/or INS in determining his/her citizenship (see Section 42-433.1).

.232 The county verifies that he/she is not a citizen of the United States.

| .3 Documentation -- Noncitizens

| .31 Every noncitizen claiming eligible noncitizen status as defined in Section 42-431 shall be required to present documentation of that status, as follows:

| .311 Noncitizens lawfully admitted for permanent residence (Section 42-431.21): USCIS Form I-551, or earlier forms I-151, AR-3 and AR-3a, if specifically endorsed to show legal right to reside permanently.

| .312 Noncitizens granted asylum or refugee status (Section 42-431.221(a) and (b) and 42-431.222): USCIS Form I-94, annotated with the term asylum or asylee, refugee or conditional entry or entrant.

| .313 Parolees (Section 42-431.221(c)): USCIS Form I-94 (Arrival-Departure Record -- Parole Edition) endorsed to show bearer has been paroled in the U.S. pursuant to Section 212(d)(5) of the Immigration and Nationality Act.

| .314 Persons granted indefinite voluntary departure or an indefinite stay of deportation (Section 42-431.223 and .224): A court order or correspondence from USCIS stating that the individual has been granted this status.

| .32 A noncitizen who declares or presents documentation that he/she is lawfully present for temporary residence (e.g., a visitor whose period of admission has not expired) is not eligible except as noted in Section 42-431.221(c) and .23.

| .33 Documentation submitted by the noncitizen applicant in accordance with .31 above which the CWD believes to be of doubtful authenticity shall be accepted as evidence of eligibility only if the applicant cooperates with the CWD and USCIS in verifying his/her status. See Section 42-433.1. A CW 6 completed by the applicant shall be referred immediately to USCIS. If USCIS returns the CW 6 to the CWD and indicates that USCIS is unable to complete the verification process due to noncooperation by the noncitizen, the CWD shall delete the noncitizen from the AU. A noncitizen who has been deleted from the AU for this reason may complete another CW 6 but shall not be reinstated to the AU until confirmation of eligible noncitizen status is received by the CWD from USCIS.

42-433 **PROOF OF CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS** (Continued) **42-433**

.4 Lack of Documentation

.41 If the noncitizen or naturalized/derivative citizen has no documentation of eligible status, the county welfare department shall inform the individual that:

.411 He/she may contact USCIS or otherwise obtain a USCIS document or other conclusive evidence verifying citizenship or eligible noncitizen status, or

.412 He/she may sign a CW 6, authorizing the county to contact USCIS to obtain the necessary verification.

.42 If a noncitizen or naturalized/derivative citizen authorizes the county to contact USCIS to obtain verification of the applicant's status, the CWD shall forward two copies of the CW 6 to USCIS and retain a copy in the case file. When USCIS verification is returned to the CWD, the CWD shall notify the applicant.

.43 If the applicant does not wish to contact USCIS or give permission to the CWD to contact USCIS, the applicant may withdraw his/her application or the application shall be denied for noncooperation (see Sections 19-007.12 and 40-105.11).

.5 Receipt of CW 6 from USCIS

When a noncitizen's eligibility has been confirmed by USCIS and the completed CW 6 has been received by the CWD, the CWD shall resume processing the application and the beginning date of aid rules in Section 44-317 shall apply.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

42-435 **LANGUAGE FLUENCY** **42-435**

If an alien applicant is not fluent in English, it shall be the duty of the county to provide an understandable explanation of documentation requirements in a language in which he is fluent.

42-711 WELFARE-TO-WORK PARTICIPATION REQUIREMENTS (Continued) 42-711

- (b) A general description of the welfare-to-work program, including available activity components and supportive services, including child care that is available under Section 42-750.11.
- (1) Information regarding child care shall include the following:
- (A) For an individual to receive child care, he or she must request and be determined eligible for the services:
- (B) Payments for child care services cannot be made for care provided more than 30 calendar days prior to the applicant's or recipient's request for child care, pursuant to Section 47-430.2; and
- (C) The individual is responsible for any child care services received prior to the 30-calendar-day period in Section 42-711.522(b)(1)(B).
- (c) A general description of the rights, duties, and responsibilities of the participants, including the following:
- (1) A list of the exemptions from the required participation pursuant to Section 42-712;
- (2) The consequences of a failure or refusal to take part in the program activity(ies), pursuant to Section 42-721, and the criteria for successful completion of the program;
- (3) A description of good cause criteria for noncooperation, pursuant to Sections 42-713 and 42-721.3;
- (4) The right to request a state hearing or file a formal grievance, pursuant to Section 42-721.5;
- (5) The right to a third-party assessment, pursuant to Section 42-711.556.

42-711	WELFARE-TO-WORK PARTICIPATION REQUIREMENTS (Continued)	42-711
---------------	---	---------------

- (d) A statement that the participant has the following grace periods:
 - (1) Three (3) working days after the completion of the welfare-to-work plan or subsequent amendments to the plan to evaluate, and request changes to, the terms of the plan, pursuant to Section 42-711.646.
 - (2) Thirty (30) days from the beginning of the initial training or education assignment activity to request a change or reassignment to another activity, pursuant to Section 42-711.647.
 - (e) School attendance requirements for children in the assistance unit.
- .523 During the appraisal, the individual shall provide information about their employment history and skills, the need for supportive services, and any other relevant information the CWD requires in order to assign welfare-to-work activities appropriately.
- .524 If the CWD denies an individual's request to continue in a SIP, pursuant to Sections 42-711.541 and/or .542, the CWD shall notify the participant in writing that the SIP was denied, the reason(s) for the denial, and the right to appeal the denial.
- .53 Job Search
- .531 Recipients are required to participate in job search activities. At the option of the CWD, applicants may voluntarily participate. Exceptions to the requirement that all recipients must participate in job search activities are as follows:
- (a) Participation in job search has been determined not to be beneficial pursuant to Section 42-711.533.
 - (b) Participation in job search shall not be required if the job search schedule will interfere with unsubsidized employment or participation in an approved SIP as specified in Section 42-711.54.
 - (c) The individual is required to participate in, is participating in, or is exempt from Cal-Learn or is 19 years old and has not yet earned a high school diploma or equivalent certificate.
 - (d) A noncitizen who is a victim of human trafficking, domestic violence or other serious crimes as specified in Section 42-431.23 who does not have authorization to work from the United States Citizenship and Immigration Services shall not be required to participate in job search.

42-711 WELFARE-TO-WORK PARTICIPATION REQUIREMENTS (Continued) 42-711

HANDBOOK BEGINS HERE

- (1) Degree, certificate, or vocational programs offered by private postsecondary schools are either: approved or exempted by the Department of Consumer Affairs, Bureau for Private Postsecondary and Vocational Education or accredited by the Western Association of Schools and Colleges.

HANDBOOK ENDS HERE

- .544 If participation in a SIP, as determined by the number of hours required for classroom, laboratory, or internship activities, is not at least 32 hours, the CWD shall require concurrent participation in work activities, pursuant to Sections 42-716.31(a) through (j) inclusive and in accordance with Section 42-711.5, to reach the 32-hour requirement.
- .545 Participation in the self-initiated education or vocational training program must be reflected in the required welfare-to-work plan.
- (a) The welfare-to-work plan shall provide that whenever an individual ceases to participate in, refuses to attend regularly, or does not maintain satisfactory progress in the SIP, the individual shall participate in the welfare-to-work activities in accordance with Section 42-711.5.
- .546 Any person whose previously approved SIP is interrupted for reasons that meet the good cause criteria in Section 42-713.2 may resume participation in the same program if the participant maintained good standing in the program while participating and the SIP continues to meet the approval criteria.
- (a) Repealed by Manual Letter No. EAS-06-01, effective 4/3/06.
- .547 Any recipient may continue until the beginning of the next educational semester or quarter break in his or her educational program that does not meet the criteria of Section 42-711.541, if:
- (a) He or she is enrolled, as defined in Section 42-711.549, as of the earlier of:
- (1) The date he or she is appraised, or
- (2) The date he or she would have been appraised if he or she had not failed, without good cause, to appear for the appraisal appointment:

42-711	WELFARE-TO-WORK PARTICIPATION REQUIREMENTS (Continued)	42-711
---------------	---	---------------

(b) He or she is making satisfactory progress in, the educational program;

(c) He or she continues to make satisfactory progress in the program.

.548 At the time the educational break occurs as provided in Section 42-711.547, the individual is required to participate in welfare-to-work activities pursuant to Section 42-711.51.

(a) A recipient, described under Section 42-711.547, who is not expected to complete the program by the next break, may continue his or her education provided:

(1) He or she transfers at the end of the current quarter or semester to a program that qualifies under Section 42-711.541;

(2) The CWD determines that participation is likely to lead to self-supporting employment of the recipient; and

(3) The welfare-to-work plan reflects that determination.

.549 For purposes of Sections 42-711.541 and .547, enrolled means that an individual has applied for and been accepted into the degree or certificate program, and continues to meet or fulfill all conditions, imposed by the institution offering the program, to maintain current enrollment status.

.55 Assessment

.551 Participants, except those excluded as provided in Sections 42-711.31, 42-711.557, and 42-711.558 and Section 42-719.111, shall be referred to assessment, if:

(a) They do not obtain unsubsidized employment with sufficient hours to meet the minimum hours of participation required under Sections 42-711.411 or .421;

(b) The CWD determines that participation in job search will not be required as the first activity because it would not be beneficial;

(c) The CWD decides to shorten job search because it is not likely to lead to employment, or;

(d) The CWD determines that participation in job search will not be required if the recipient is a noncitizen victim of human trafficking, domestic violence or other serious crimes as specified in Section 42-431.23 and does not have authorization to work from the United States Citizenship and Immigration Services.

42-711 **WELFARE-TO-WORK PARTICIPATION REQUIREMENTS (Continued)** **42-711**

- (1) A recipient who does not have authorization to work should be assigned to welfare-to-work activities that will assist him or her to prepare for future employment, which may include, but is not limited to, adult basic education (English language training), vocational education and training, domestic violence, mental health, and substance abuse services.

This page is intentionally left blank.

42-711	WELFARE-TO-WORK PARTICIPATION REQUIREMENTS (Continued)	42-711
---------------	---	---------------

- (a) Unsubsidized employment.
- (b) Work experience as defined in Section 42-701.2(w)(3).
- (c) Self-employment.
- (d) Job skills training directly related to employment.
- (e) Mental health, substance abuse, and/or domestic abuse services in accordance with Sections 42-716.4, 42-716.5, and 42-716.31(q), respectively.

.8 Satisfactory Participation

.81 The criteria for satisfactory participation in an assigned education or training activity include regular attendance and satisfactory progress. A participant who fails or refuses to comply with program requirements for participation in the activities assigned pursuant to Section 42-711, and whose failure to make satisfactory progress is not due to a learning or medical problem, shall be subject to compliance and sanction requirements in accordance with Sections 42-721.2 and .4, respectively, unless the participant is exempt from the participation and compliance requirements pursuant to Section 42-721.13.

.811 The CWD or the service provider shall inform the participant of the standards for meeting the regular attendance and satisfactory progress requirements for the program to which they are assigned.

.9 Repealed by Manual Letter No. EAS-06-01, effective 4/3/06.

NOTE: Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: Sections 11203, 11253.5(b), 11320.1, 11320.1(c), 11320.15, 11320.3, 11322.6, 11322.8, 11324.8(a) and (b), 11325.2, 11325.21, 11325.22, 11325.23(a), (b), (c), (e), and (f), 11325.25, 11325.4, 11325.5, 11325.6, 11325.7, 11325.8, 11326, 11327.4 and .5, 11454, 13283, 15204.2 and .8, and 16501.1(d) and (f), and 18945(a), Welfare and Institutions Code; and 42 U.S.C. 607(c)(1)(A), (c)(1)(B)(ii), and (c)(2)(A)(i).

This page is intentionally left blank.

49-015 APPLICATION PROCESS (Continued) 49-015

- .4 In order to be allowed, an application may be filed no earlier than the month prior to the month that all eligibility factors are met.
- .41 The effective date of benefit payments is the first of the month following the later of the date the application is filed or the date the individual would otherwise become eligible for benefits.

HANDBOOK BEGINS HERE

- .42 Example: Mr. Jones will attain age 65 on March 29, 1999. He can file an application as early as February 1, 1999, but his CAPI benefits will not be effective until April 1, 1999.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 416.200, 20 CFR 416.203; 20 CFR 416.315; 20 CFR 416.320; 20 CFR 416.330; P.L. 104-193, Section 204 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18937, 18938, 18940, and 18944, Welfare and Institutions Code.

49-020 IMMIGRATION STATUS 49-020

- .1 General requirements
- .11 To be eligible for CAPI, a noncitizen must be one of the following:
- .111 A legal immigrant who meets the immigration status requirements in effect for SSI/SSP on August 21, 1996, or
- .112 A victim of human trafficking, domestic violence or other serious crimes as defined in Welfare and Institutions Code Section 18945. Applicants qualified under these provisions will be eligible for benefits and services to the same extent as individuals who are admitted to the United States as refugees.
- .12 The previous SSI/SSP requirements for immigrant status, found in 20 CFR 416.1600, stated that a non-citizen had to be a resident of the United States and an alien lawfully admitted for permanent residence in the United States, or an alien permanently residing in the United States under color of law (PRUCOL). This means the individual had to have a status listed under either "Qualified Alien" or "PRUCOL" in Section 49-005.

49-020 **IMMIGRATION STATUS (Continued)** **49-020**

- .13 A victim of trafficking must meet the same eligibility criteria as those used for the State Trafficking and Crime Victims Assistance Program (TCVAP) found in MPP Sections 70-102 and 70-103.1 through .4.
- .14 A victim of domestic violence or other serious crimes must meet the same eligibility criteria as those used for the TCVAP found in MPP Section 70-104.1.
- .2 Specific eligibility requirements for individuals whose date of entry into the United States was prior to August 22, 1996. Non-citizens in this category (who meet all other requirements) are eligible for basic CAPI, but not extended CAPI.
- .21 Qualified Aliens as defined in MPP Section 49-005(q)(1) who were lawfully residing in the United States on August 21, 1996 must be age 65 or older to be eligible for CAPI.

This page is intentionally left blank.

49-020 **IMMIGRATION STATUS (Continued)** **49-020**

- .22 Noncitizens who do not meet the definition of Qualified Alien must meet the other immigration standards in effect for SSI/SSP on August 21, 1996, which are known as the PRUCOL categories as defined in MPP Section 49-005(p), or be a victim of human trafficking, domestic violence, or other serious crimes as specified in MPP Section 49-020.1, to be eligible for CAPI.
- .221 Individuals in this group can establish eligibility under any one of the three basic eligibility criteria (aged, blind or disabled).
- .3 Two different sets of specific eligibility requirements exist for individuals who legally entered the United States on or after August 22, 1996. One set exists for basic CAPI, and another set for extended CAPI (as defined in MPP Sections 49-005(b) and (e), respectively). Refer to MPP Section 49-037 for the different deeming periods for each component.
- .31 To be eligible for basic CAPI, an immigrant who legally entered the United States on or after August 22, 1996 must be sponsored and one of the following must apply:
- .311 The sponsor is deceased.
- (a) The applicant must provide evidence that his or her sponsor has died.
- .312 The sponsor is disabled as defined in Welfare and Institutions Code Section 11320.3(b)(3)(A).
- (a) The applicant must provide verification of the sponsor's disability.

HANDBOOK BEGINS HERE

- (b) Welfare and Institutions Code Section 11320.3(b)(3)(A) states:

"The individual is disabled as determined by a doctor's verification that the disability is expected to last at least 30 days and that it significantly impairs the recipient's ability to be regularly employed or participate in welfare-to-work activities, provided that the individual is actively seeking appropriate medical treatment."

HANDBOOK ENDS HERE

- .313 The applicant is a victim of abuse by the sponsor or the sponsor's spouse. Abuse is defined in the same manner as provided in MPP Section 42-701.2(d)(3), as authorized by Welfare and Institutions Code Section 11495.1.

49-020 **IMMIGRATION STATUS (Continued)** **49-020**

- (a) Abuse means assaultive or coercive behavior that includes, but is not limited to, physical abuse, sexual abuse, psychological abuse, economic control, isolation, stalking, and threats or other types of coercive behavior.

HANDBOOK BEGINS HERE

- (b) Welfare and Institutions Code Section 18938(A)(4) states in part:
- "(A)(4) ...A sworn statement of abuse by a victim, or the representative of the victim if the victim is not able to competently swear, shall be sufficient to establish abuse if one or more additional items of evidence of abuse is also provided. Additional evidence may include, but is not limited to the following:
- "(i) Police, government agency, or court records or files.
- "(ii) Documentation from a domestic violence program, legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with abuse.
- "(iii) A statement from any other individual with knowledge of the circumstances that provided the basis for the claim.
- "(iv) Physical evidence of abuse.

HANDBOOK ENDS HERE

- (c) If the victim cannot provide additional evidence of abuse, then a confidential sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

.32 To be eligible for extended CAPI, a noncitizen who meets the definition of Qualified Alien, Permanently Residing in the United States Under Color of Law (as defined in MPP Sections 49-005(q) and (p), respectively), or who is a victim of human trafficking, domestic violence or other serious crimes as specified in MPP Section 49-020.1, must have entered the United States on or after August 22, 1996 and be ineligible for basic CAPI under any of the conditions described in MPP Sections 49-020.311 through .313.

49-020 **IMMIGRATION STATUS (Continued)** **49-020**

- .4 For purposes of determining eligibility for CAPI under the provisions of Welfare and Institutions Code Sections 18938 and 18940, "entered the United States" or "entry date" means the effective date of the non-citizen's current immigration status as determined by the Immigration and Naturalization Service, except in either of the following situations:
- .41 The non-citizen is a current CAPI recipient whose immigration status was adjusted after he or she began receiving CAPI benefits. In the situation, the same entry date that was used to determine his or her initial CAPI eligibility will continue to be used for redetermination of eligibility.
 - .42 The non-citizen, as of August 21, 1996, had an immigration status that met the definition of "Qualified Alien" [as defined in MPP Section 49-002(q)(1)], and has maintained continuous residence in the United States since at least August 21, 1996. In this situation the effective date of the Qualified Alien status held by the non-citizen on August 21, 1996 will be deemed to be his or her "entry date" for purposes of determining CAPI eligibility even if the non-citizen later adjusts his or her immigration status.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: 20 CFR 416.1600; P.L. 104-193 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) as amended, Sections 401 and 402 and Sections 13283, 18938, 18940, 18944, and 18945, Welfare and Institutions Code.

49-025 **AGE AND DISABILITY** **49-025**

- .1 To be eligible for CAPI as an aged individual, a person must be 65 years of age or older.
- .11 An applicant must submit evidence of his or her date of birth in accordance with federal regulations.
 - .111 An applicant whose age is a condition of eligibility must submit a public record of birth, or a religious record of birth or baptism recorded before age 5, if available. If such records are not available, other evidence may be submitted to establish the applicant's date of birth. If the applicant alleges to be at least age 68, any document submitted that is at least 3 years old will be sufficient.
- .2 To be eligible for CAPI as a blind individual, a person must meet the requirements specified in 20 CFR 416.981 et seq. for the SSI/SSP program.

HANDBOOK BEGINS HERE

- .21 A person who is determined to be statutorily blind is considered blind for purposes of SSI/SSP eligibility as stated in 20 CFR 416.981:

"Statutory blindness is central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which has a limitation in the field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered to have a central visual acuity of 20/200 or less."

HANDBOOK ENDS HERE

- .22 The Department's Disability and Adult Programs Division is responsible for making all blindness and disability determinations for CAPI.

- .221 A current determination of blindness established for Title II Social Security, SSI/SSP, or Medi-Cal can be used to establish blindness for CAPI. A current determination is one that has not lapsed due to benefit termination.

HANDBOOK BEGINS HERE

- .222 Medical History and related forms must be completed and transmitted to the State Programs Branch of the Disability and Adult Programs Division along with any other medical documentation. The required forms are the MC 220, MC 221, and MC 223 and must be annotated with the identifier "CAPI CASE".

HANDBOOK ENDS HERE

- .3 To be eligible for CAPI as a disabled individual, a person must meet the requirements specified in 20 CFR 416.901 et seq. for the SSI/SSP program.

HANDBOOK CONTINUES

- (k) A child is age 6 months or younger and the birth certificate or other evidence (e.g., hospital admission summary) shows a weight at birth below 2 pounds, 10 ounces (1,200 grams).
- (l) Human immunodeficiency virus (HIV) infection (accompanied by a medical-source statement regarding manifestations of illness.)
- (m) A child is 6 months or younger and available evidence (e.g., hospital admission summary) shows a gestational age at birth as follows:

Gestational Age (in weeks)	Birth Weight
37-40	Less than 2,000 grams (4 lbs. 6 oz.)
36	1,875 grams or less (4lbs. 2 oz.)
35	1,700 grams or less (3 lbs. 12 oz.)
34	1,500 grams or less (3 lbs. 5 oz.)
33	1,325 grams or less

- (n) A physician or knowledgeable hospice official confirms an individual is receiving hospice services due to terminal cancer.

HANDBOOK ENDS HERE

- .42 To be eligible for CAPI benefits based on a finding of presumptive disability, a person must meet all other eligibility criteria.
- .43 CAPI payments based on presumptive disability cannot be made for longer than 6 months.
- .44 Payments based on a presumptive disability are not considered overpayments if the applicant is ultimately determined to be not blind or disabled.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: 20 CFR 404.1505; 20 CFR 404.1581; 20 CFR 416.202; 20 CFR 416.906; 20 CFR 416.920; 20 CFR 416.931 through .944; 42 CFR 435.530; 42 CFR 435.540, and Sections 18937 and 18940, Welfare and Institutions Code.

49-030 **INELIGIBILITY FOR SSI/SSP** **49-030**

- .1 To be eligible for CAPI, an individual must be ineligible for SSI/SSP solely due to his or her immigration status.
 - .11 Ineligibility must be verified by one of the following:
 - .111 Formal denial letter from the Social Security Administration (SSA) issued after August 1, 1998 and within 6 months of the CAPI application that states the person is ineligible for SSI/SSP due to immigration status.
 - .112 Informal denial letter or other communication from SSA issued after August 1, 1998 and within 6 months of the CAPI application that indicates the person is ineligible for SSI/SSP due to immigration status.
 - .113 A county determination that the applicant is not a Qualified Alien (or considered as such) as defined in MPP Section 49-005(q)(1).
- .2 Verification that an SSI/SSP application has been filed with SSA and is pending a final determination may be used to meet the SSI/SSP ineligibility requirements in lieu of the evidence outlined in MPP Section 49-030.11.
 - .21 For purposes of this Section, an SSI/SSP application also includes a pending appeal if the issue under appeal is:
 - .211 Related to the applicant's disability; or
 - .212 Related to the person's immigration status.
 - .22 Counties must complete the SSI/SSP application with SSA or otherwise initiate the SSI/SSP application process in accordance with instructions issued by the department on behalf of any applicant who cannot present any of the evidence listed in MPP Sections 49-030.111 through .113, or MPP Section 49-030.2.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: Sections 13283, 18938, 18939, and 18945 Welfare and Institutions Code.

49-055 **BENEFIT DETERMINATIONS (Continued)** **49-055**

- .212 Non-recurring income received in the second month of eligibility is not considered in determining the benefit amount for the fourth month of eligibility.
- .213 Non-recurring income is a type of income (Social Security, in-kind, earned, deemed, etc.) present in one month, but not the next month of eligibility. The same type of income received in one month and the next month, but in different amounts, does NOT meet the definition of non-recurring income.
- .22 In-kind support and maintenance received in the budget month is not used to further reduce a CAPI payment that is already reduced in the payment month because the individual is in the reduced needs household of another living arrangement.
- .23 Deemed income from an ineligible spouse from the budget month is not counted in determining CAPI benefits effective with the month after the month the ineligible spouse dies.
- .24 Deemed income from an ineligible parent from the budget month is not counted in determining CAPI benefits effective with the month after the month the ineligible parent dies, or after the month child attains age 18.
- .3 The CAPI benefit is calculated in the following manner:
 - .31 Determine the correct payment standard for the payment month based on the applicant's or recipient's living arrangement for that month.
 - .32 Subtract the individual's, or couple's, countable income from the budget month from the payment standard for the current month (subject to the exceptions listed in MPP Section 49-055.2).
 - .33 The difference is the CAPI benefit amount for that month.
- .4 Each member of an eligible couple receives one-half of the couple's benefit amount when each member is eligible for CAPI.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code. Reference: Jones v. Shalala 5 F3d 447 (9th Cir. 1993); 20 CFR 416.420(a); 20 CFR 416.502, and Section 18940, Welfare and Institutions Code.

49-060 **BENEFIT SUSPENSIONS AND TERMINATIONS (Continued)** **49-060**

- .2 An individual has 12 consecutive months after the effective date of the suspension to regain eligibility and have benefits reinstated without having to file a new application. An individual requesting reinstatement must submit such evidence as may be necessary (except evidence of age, disability or blindness) to re-establish his or her eligibility. Payments to such recipient shall be reinstated effective with the first day he or she meets all eligibility requirements except filing for a new application.

- .3 Eligibility is terminated for a recipient:
 - .31 After 12 consecutive months of benefit suspension.

 - .32 When the recipient becomes a citizen.

This page is intentionally left blank.

49-060 **BENEFIT SUSPENSIONS AND TERMINATIONS (Continued)** **49-060**

- .33 When the recipient dies.
- .34 When the recipient under age 65 is no longer blind or disabled.
- .35 When the recipient asks to voluntarily terminate his or her CAPI benefits.
- .4 A new application shall be filed to re-establish eligibility following termination, unless there is a favorable appeal decision.

NOTE: Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: 20 CFR 416.1323; 20 CFR 416.1324; 20 CFR 416.1325; 20 CFR 416.1330; 20 CFR 416.1331; 20 CFR 416.1333 through .1335; P.L. 104-193, Section 202 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18937, 18938, 18940, and 18945, Welfare and Institutions Code.

49-065 **INTERIM ASSISTANCE REIMBURSEMENT** **49-065**

HANDBOOK BEGINS HERE

- .1 The Social Security Administration provides interim assistance reimbursement by withholding all or part of a recipient's retroactive SSI/SSP payment(s) to repay states or counties for any interim assistance paid while the SSI/SSP application was pending, or while the SSI/SSP benefits were suspended if the person is subsequently found to be eligible, if certain conditions are met.
- .11 The following definition of interim assistance is found in 20 CFR 416.1902:

"Interim assistance means assistance the State gives you, including payments made on your behalf to providers of goods or services, to meet your basic needs, beginning with the day of the month you apply for SSI benefits and are eligible for them, and ending with, and including, the month your SSI benefit payments begin, or assistance the State gives you beginning with the day for which your eligibility for SSI benefits is reinstated after a period of suspension or termination and ending with, and including, the month the Commissioner makes the first payment of benefits following the suspension or termination if it is determined subsequently that you were eligible for benefits during that period. It does not include assistance the State gives to or for any other person. If the State has prepared and cannot stop delivery of its last assistance payment to you when it receives your SSI benefit payment from us, that assistance payment is included as interim assistance to be reimbursed. Interim assistance does not include assistance payments financed wholly or partly with Federal funds."

HANDBOOK ENDS HERE

49-065 **INTERIM ASSISTANCE REIMBURSEMENT (Continued)** **49-065**

- .2 Counties must take all necessary steps to qualify any CAPI benefits paid for federal interim assistance reimbursement. These steps include:
 - .21 Obtaining a signed authorization form from the applicant or recipient.
 - .22 Forwarding the signed authorization form (or approved electronic authorization) to the Social Security Administration.
 - .23 Crediting or refunding any federal interim assistance reimbursement received for CAPI payments to the state.
- .3 The state will provide its own interim assistance reimbursement to counties who provide interim assistance during the period of time that an individual's initial application is pending, or during a period of CAPI payment suspension prior to reinstatement. The reimbursement period begins with the first month of CAPI eligibility, and ends with, and includes, the month that the individual's CAPI payments begin.
 - .31 Interim assistance, for purposes of state reimbursement, means any financial assistance the county provides to the CAPI applicant during the period beginning with the first month of CAPI eligibility, and ending with, and including, the month that the individual's CAPI payments begin.
 - .32 The interim assistance for state reimbursement does not include any payments financed wholly or partly with federal or state funds.
 - .33 For a county to receive state interim assistance reimbursement, the county must do all of the following:
 - .331 For applications filed on or after March 4, 1999, obtain a signed authorization form (SOC 455) from the applicant or recipient.
 - .332 For applications filed prior to March 4, 1999, counties were required to obtain both: 1) the SSP 14 or replacement form authorizing SSA to reimburse from the individual's SSI/SSP check to the county for GA expenditures made during the SSI/SSP eligibility period, and 2) the IAR part of CAPI form SOC 451 authorizing SSA to reimburse from the individual's SSI/SSP check to the county, on behalf of the state, for CAPI expenditures made during the SSI/SSP eligibility period.)
 - .333 Issue, or request issuance of, a net retroactive CAPI payment (after withholding the amount of the interim assistance owed to the county) directly to the recipient within 10 working days of the date CAPI eligibility and payment amount have been determined.