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Regulation Package # 0208-01

CDSS MANUAL LETTER NO. SP-08-01

TO: HOLDERS OF THE SPECIALIZED PROGRAMS MANUAL

Regulation Package # 0208-01

Effective 07/1/08

Sections 69-201, 69-202, 69-205, 70-101, 70-102, 70-103, 70-104, and 70-105

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Specialize_621.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 Specialized Programs Manual changes was SP-06-01.

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REFUGEE PROGRAMS		
Regulations	REFUGEE RESETTLEMENT PROGRAM	69-201
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69-201	GENERAL STATEMENT	69-201

- .1 These regulations implement the Federal Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (P.L. 96-212), federal regulations 45 CFR Part 400, and additional instructions issued by the Federal Office of Refugee Resettlement (ORR), in order to provide financial assistance, medical assistance and social services to all refugees in the United States regardless of national origin.
- .2 The California Department of Social Services (CDSS) is the designated state agency responsible for development of the State Plan for Refugee/Entrant Assistance and for the administration of the plan in accordance with 45 CFR Section 400.5.
- .3 County Welfare Departments (CWDs) shall determine the eligibility of refugees in the Refugee Resettlement Program (RRP) for CalWORKs or Refugee Cash Assistance (RCA). Eligibility for SSI/SSP shall be determined by the Social Security Administration. The CWD shall administer these programs according to federal policy under the supervision of CDSS for financial assistance and social services, and the State Department of Health Care Services (DHCS) for medical services. Eligibility for benefits and services of noncitizen victims of a severe form of human trafficking who do not qualify under Sections 69-202.15 and .16, and noncitizen victims of domestic violence or other serious crimes shall be determined pursuant to Chapter 70-100, the Trafficking and Crime Victims Assistance Program (TCVAP).
- .4 CalWORKs program regulations relating to financial eligibility and payments apply (except for Diversion Services payments [See MPP Section 81-215.31]) unless specifically superseded by RCA regulations contained herein.

The following regulations shall be followed in implementing the program for financial assistance.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code; 45 CFR 400 and 400.5.

69-202	UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (USCIS) STATUS REQUIREMENT	69-202
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- .1 For purposes of determining eligibility for cash assistance and social services under RRP, a person must provide proof, in the form of documentation issued by the USCIS, of one of the following statuses:
 - .11 Paroled as a refugee or asylee under Section 212(d)(5) of the INA.
 - .12 Cuban and Haitian entrants, in accordance with requirements in Section 69-302.
 - .13 Admitted as a refugee under Section 207 of the INA.
 - .14 Granted asylum under Section 208 of the INA.
 - .15 Certified as a victim of a severe form of trafficking by the federal Office of Refugee Resettlement (ORR). (For a noncertified, noncitizen victim of a severe form of human trafficking or noncitizen victim of domestic violence or other serious crimes, see Chapter 70-100.)
 - .16 Eligible family members of a victim of a severe form of trafficking certified by ORR who have a T-2, T-3, T-4, or T-5 Visa. (For family members of a noncertified, noncitizen victims of a severe form of human trafficking or noncitizen victim of domestic violence or other serious crimes, see Chapter 70-100.)
 - .17 Certain Amerasians from Vietnam who are admitted to the United States as immigrants pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Section 101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law 100-461 as amended)).
 - .18 Admitted for permanent residence provided the individual previously held one of the statuses identified above.
- .2 For purposes of determining eligibility for assistance and social services under RRP, the term "refugee" does not include:
 - .21 Any person with an USCIS status of 1) applicant for asylum (as distinguished from a person who has been granted asylum) or 2) Cuban/ Haitian Entrant, or 3) Humanitarian/Public Interest Parolee.

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- .211 Cubans and Haitians are assisted under the Cuban/Haitian Entrant Program (CHEP) and receive cash assistance under the Entrant Cash Assistance (ECA) Program.

HANDBOOK ENDS HERE

69-202 UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES 69-202
(USCIS) STATUS REQUIREMENT (Continued)

- .22 Those persons who are 1) actually dependent upon a repatriated United States citizen, except as provided in Section 69-202.221, and 2) who meet one of the following categories of relationship with such citizen: spouse, parents, grandparents, unmarried minor (under 18 years), children including adopted children and stepchildren, unmarried adult children who are dependent because they are handicapped, including adopted children and stepchildren, spouse's parents, spouse's grandparents and minor siblings of the repatriate and spouse. Repatriated United States citizens and their dependents as defined above are included in the Repatriate program. (See [MPP] Division 68.)
- .221 Following the first 90 days after date of entry in the United States, those dependents of repatriated United States citizens who qualify as refugees are eligible to apply under the RRP.

.23 Any person determined eligible pursuant to Chapter 70-100 (TCVAP).

.3 Children

- .31 In a number of cases, children have been born in the United States to refugee parents, or have been born to a refugee and a United States citizen. These children are considered to be United States citizens by birth. However, under the following circumstances, such children are eligible for assistance (CalWORKs, SSI/SSP, RCA, and medical assistance) and social services funded under RRP:
- .311 Children born in the United States of refugee parents are eligible for cash and medical assistance and social services through RRP. Such children are to be included in the parent's case.
- .312 Children who are born of a refugee and a United States citizen, who are living with the aided refugee parent only, can be aided through RRP. Such children are to be included in the refugee parent's case.
- .32 United States citizen children born of a refugee and a United States citizen are not eligible for assistance or services funded by RRP if the household unit includes the United States citizen parent. In these situations, the refugee parent if eligible may receive RRP funded assistance (CalWORKs, SSI/SSP, RCA and/or medical assistance) and social services; and the United States citizen parent and the children if eligible may be aided under the regular (non-RRP funded) CalWORKs, SSI/SSP, medical assistance and/or social services programs.

69-202	UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (USCIS) STATUS REQUIREMENT (Continued)	69-202
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- .33 In any household unit consisting of a refugee and a nonrefugee alien, the "nonrefugee alien" should be considered as the "United States citizen" for purposes of Sections 69-202.31 and .32.
- .34 Children of refugees who are relinquished for foster care placement shall have their eligibility for AFDC-FC determined in accordance with AFDC-FC regulations.
- .35 Minor refugee children for whom no legal relationship has been established with an adult, shall be referred to the appropriate agency, contracted with by the State to operate the Unaccompanied Refugee Minor Program, to initiate the establishment of legal custody and/or guardianship, as appropriate, in accordance with applicable State law.

.4 RCA

- .41 For purposes of determining eligibility for RCA, RCA means cash assistance provided to refugees who have been determined to be ineligible for CalWORKs or SSI/SSP and who have resided in the United States for no longer than the period of time required by federal regulations contained in 45 CFR Sections 400 et seq. or official issuances from the Director of the Federal Office of Refugee Resettlement. This period of time is referred to as time eligibility. Time eligibility does not apply to determinations for state TCVAP cash aid (see Chapter 70-100.)

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- .411 Federal regulations, effective October 1, 1991, set RCA time eligibility at 8 months (45 CFR Sections 400.203 and 400.211).

HANDBOOK ENDS HERE

- .42 Repealed by Manual Letter No. SP-91-01, effective 2/1/91.

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

69-205 ELIGIBILITY FOR REFUGEE CASH ASSISTANCE (RCA) (Continued) 69-205

.2 Eligibility Determination

CalWORKs program forms shall be used for eligibility determination, unless alternate forms are approved by CDSS for use by the CWD.

.21 The eligibility of each RCA applicant shall be determined as promptly as possible within no more than 30 days from the date of application.

.211 The date of application is the date to use for the beginning date of RCA.

.212 For victims of a severe form of human trafficking who are receiving state TCVAP cash aid and who have obtained ORR certification and are now eligible for RCA, a new eligibility period will commence pursuant to Section 69-202.411 and the beginning date of aid is determined as follows:

- (a) If the original application for assistance is still current, the beginning date of aid is the date of ORR certification (see Section 70-105.13).
- (b) If the original application is no longer current, the regular beginning date of aid rule at Section 69-205.211 applies.
- (c) There shall be no break in service and the recipient shall be notified of the new eligibility period.

.213 Claiming for cases being converted from TCVAP to RCA shall be changed from state-only to federal effective the beginning date of RCA.

.22 Counties shall not deny RCA applicants cash assistance based on the applicant's refusal to disclose his/her social security number.

.221 Counties may request that an RCA applicant voluntarily provide his/her social security number. If a county selects to make this request, it must:

- (a) Inform the applicant the disclosure is voluntary; and
- (b) Tell the applicant how the county will use the number.

69-205 **ELIGIBILITY FOR REFUGEE CASH ASSISTANCE (RCA) (Continued)** **69-205**

.23 CWDs shall make available to RCA applicants the written policies of the RCA program, including agency policies regarding eligibility standards, the duration and amount of cash assistance payments, the requirements for participation in services, the penalties for non-cooperation, and client rights and responsibilities to ensure that refugees understand what they are eligible for, what is expected of them, and what protections are available to them. The CWD shall ensure that agency policy materials and all notices required are made available in written form in English and in appropriate languages where a significant number or proportion of the recipient population needs information in a particular language. For refugee groups that make up only a small number of the recipient population, CWDs, at a minimum, shall use an alternative method, such as verbal translation in the refugee’s native language, to ensure that the content of the policies is effectively communicated to each refugee.

.24 Time-Eligibility

.241 Eligibility for RCA is limited to the number of months required in Section 69-202.41 following the refugee's date of entry in the United States. The month of entry, as indicated on the USCIS Form I-94, is counted as the first month. Time-eligibility exceptions to this provision include asylees who are eligible for RCA beginning on the date they are granted asylum, victims of a severe form of trafficking who are eligible for RCA beginning on the date they are certified by the ORR; eligible family members of certified trafficking victims who are eligible for RCA from the date of entry into the U.S. or the date of the Derivative T Visa is issued if already present in the U.S.; and unaccompanied refugee minors (Section 69-213) who are not subject to the time-eligibility limitation. Noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 and victims of domestic violence or other serious crimes, are not subject to the time-eligibility limitation under Section 70-105.121.

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69-205 ELIGIBILITY FOR REFUGEE CASH ASSISTANCE (RCA) (Continued) 69-205

- .441 Is approved as part of the individual's employability plan as developed by the CWD or its designee;
- .442 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. If there is no documentation available the CWD shall accept client declaration as an acceptable method for determining if the refugee has received higher education in the United States prior to application for aid); and
- .443 Is specifically intended to assist the individual in becoming relicensed in his/her profession; and, if completed, can realistically be expected to result in such relicensing.

NOTE: Authority cited: Section 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006). Reference: Sections 10553, 13283, and 18945, Welfare and Institutions Code; 45 CFR 400.55; 45 CFR 400.66; and 45 CFR 400.81(b); The Trafficking Victims Protection Act of 2000 (P.L. 106 - 386), Sections 107(b)(1)(A), (B), and (C); and the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193).

69-206 INCOME AND RESOURCES 69-206

.1 Income

Income shall be considered on the same basis as in the CalWORKs program for determining need and computing the assistance payment, except that the sponsored alien provisions as it applies in the CalWORKs program shall not be applied to RCA cases.

- .11 Any reception and placement cash received by a refugee after their arrival into the U.S. shall not be considered in determining income eligibility.

.2 Resources

Real and personal property limitations shall be those prescribed in CalWORKs program regulations, except that the sponsored alien provisions in the CalWORKs program shall not be applied to RCA cases.

- .21 Any resources remaining in the applicant's country of origin shall not be considered in determining income eligibility.

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

**SPECIAL PROGRAMS REGULATIONS
TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM**

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CHAPTER 70-100 TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM (TCVAP)

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CHAPTER 70-100 TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM (TCVAP)**70-101 GENERAL STATEMENT****70-101**

- .1 These regulations implement Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006), which established the state TCVAP in order to provide public social services and health care services to noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 and to noncitizen victims of domestic violence or other serious crimes. 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 under Sections 69-201 et seq.
- .2 County Welfare Departments (CWDs) shall determine the eligibility of applicants for TCVAP. The CWD shall administer these programs according to state policy under the supervision of CDSS for public social services, and the State Department of Health Care Services for medical services.
 - .21 Sections 70-102 and 70-103 shall be applied when determining the status and eligibility of trafficking victims.
 - .22 Section 70-104 shall be applied when determining the eligibility of domestic violence and other serious crime victims.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

70-102 DETERMINATION OF TRAFFICKING VICTIM STATUS

70-102

- .1 The CWD shall determine the trafficking status of non-federally eligible individuals applying for state benefits and services as victims of a severe form of human trafficking.

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- .11 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 for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

HANDBOOK ENDS HERE

- .2 For purposes of determining eligibility as a victim of a severe form of human trafficking for TCVAP, a sworn statement by the victim, or a representative if the victim is not able to competently make a sworn statement, is sufficient to verify trafficking status, if at least one item of additional evidence is provided, including, but not limited to:
- .21 Police, government agency, or court records or files;
 - .22 News articles;
 - .23 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;
 - .24 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;
 - .25 Physical evidence;
 - .26 A copy of a completed visa application;
 - .27 Written notice from USCIS of receipt of the visa application.

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Regulations TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM 70-102

70-102 DETERMINATION OF TRAFFICKING VICTIM STATUS (Continued) 70-102

.3 If the victim cannot provide additional evidence, the sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

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

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

SPECIAL PROGRAMS

70-103

TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM

Regulations

70-103 DETERMINATION OF TRAFFICKING VICTIMS' ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES

70-103

- .1 Once it has been determined that the applicant meets the definition of a victim of a severe form of human trafficking, in order to determine the applicant's eligibility for TCVAP, the CWD must verify that the applicant:
 - .11 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or
 - .12 Is preparing to file an application for a T Visa; or
 - .13 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or
 - .14 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

- .2 The following documentation may be useful in determining whether an applicant has filed for a T Visa:
 - .21 A confirmation receipt or letter from USCIS verifying an application has been filed; or
 - .22 A copy of the application for a T Visa (form I-914).
- .3 If an applicant has not yet filed for a T Visa, the applicant's statement that s/he 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.
 - .31 Documentation could include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who are assisting the victim with the T Visa application or steps to becoming eligible.
- .4 "Continued Presence" is a status that allows victims assisting law enforcement to remain in the country during the course of a criminal investigation.

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70-103 DETERMINATION OF TRAFFICKING VICTIMS' ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES (Continued) 70-103

- .5 Eligibility for state-funded services shall be terminated if:
 - .51 The recipient's application for a T Visa has been finally administratively denied; or,
 - .511 An application for a visa has been "finally administratively denied" when 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.
 - .52 The recipient has not applied for a T Visa within one year of the date of application for public social services; or,
 - .53 A request on behalf of the recipient for continued presence has not been made within one year of date of application for public social services; or
 - .54 The recipient has been issued a T Visa.

NOTE: Authority Cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

70-104 **DETERMINATION OF SERIOUS CRIME VICTIMS** **70-104**
ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES

.1 In determining eligibility for TCVAP the CWD must verify that the applicant has filed a formal application for a U Visa (Form I-918 and required supplements) with USCIS under Section 1101(a)(15)(U)(i) of Title 8 of the U.S. Code.

HANDBOOK BEGINS HERE

.11 Federal law defines noncitizen victims of serious crimes as aliens who:

.111 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,

.112 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

.113 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).

.12 Acceptable documentation for verifying that an application for a U Visa has been filed includes, but is not limited to:

.121 A confirmation receipt or letter from USCIS verifying that a request has been filed; or

.122 The Notice of Action (form I-797) approving a U Visa; or

.123 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or

.124 A copy of the Petition for U Nonimmigrant status (Form I-918).

HANDBOOK ENDS HERE

SPECIAL PROGRAMS

Regulations TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM 70-105 (Cont.)

70-104 DETERMINATION OF SERIOUS CRIME VICTIMS 70-104
ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES (Continued)

.2 Eligibility for state-funded services for victims of serious crimes will be terminated when the recipient's application for a U Visa has been finally administratively denied, as defined in Section 70-103.511, or when the 60-month program limitation has been reached, whichever comes first.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code, Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

70-105 TCVAP BENEFITS AND SERVICES 70-105

.1 Eligibility Procedures for TCVAP Benefits and Services Equivalent to Refugee Case Assistance (RCA).

Individuals determined eligible pursuant to Sections 70-102 through 70-104 are entitled to benefits and services to the same extent as refugees as defined at Sections 69-202.1 and .2, and are subject to the same requirements (outside of legal status) as RCA recipients as described in Sections 69-204 through 69-216, with the following exceptions that include, but are not limited to:

.11 Eligibility for Other Programs (cross-reference Section 69-204)

.111 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes applying for benefits under these provisions shall not be required to apply for SSI/SSP, as it would be inappropriate to impose a requirement for which it is known there is no eligibility.

.112 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under CAPI shall be aided under CAPI.

.113 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under the state CalWORKs program shall be aided under the state CalWORKs program.

.12 Eligibility for TCVAP Cash Aid (cross-reference Section 69-205)

.121 Neither time-eligibility nor refugee status criteria in TCVAP cases.

.122 Eligibility for TCVAP cash aid is limited to the number of months required in Section 69-202.41 following the date of application.

.123 TCVAP trafficking recipients are permitted one year to apply for a T Visa, and are limited to a maximum of 8 months of TCVAP cash aid during this period.

(a) If 8 months of TCVAP is paid prior to the year elapsing and TCVAP cash aid is discontinued, services for which recipients are eligible may continue until the twelve-month period elapses.

SPECIAL PROGRAMS

70-105 (Cont.)

TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM

Regulations

70-105 TCVAP BENEFITS AND SERVICES (Continued)

70-105

- (b) If the TCVAP recipient files an application for a T Visa during this year, there is still an 8 month maximum limit on TCVAP cash aid, but services for which they are eligible continue.
- (c) If the recipient does not file an application for a T Visa within one year of the date of application, the case shall be discontinued.
- (d) If ORR certification is obtained, the case is converted to RCA, pursuant to Section 70-105.13.
- (e) If the request for a T Visa is finally administratively denied, as defined in Section 70-103.511, the case is discontinued.

.124 TCVAP crime victim recipients must have filed a request for a U Visa in order to be eligible for TCVAP benefits and services. Once eligible, they are limited to a maximum of 8 months of TCVAP cash aid and continuing services for which they are eligible.

- (a) If/when the U Visa request is finally administratively denied, as defined in Section 70-103.511, the TCVAP case shall be discontinued.

.13 Conversion to RCA

When a TCVAP trafficking recipient obtains ORR certification, a determination shall be made of RCA eligibility (see Section 69-205). If all eligibility factors for RCA are met, the TCVAP case shall be discontinued and a new eligibility period for RCA shall be granted pursuant to Section 69-202.411, for the maximum period allowable under that section.

.14 Employment/Training Requirements and Exemptions (cross-reference Section 69-207)

.141 Compliance with certain Registration, Employment and Employment-Directed Education/Training Requirements shall not be required if the recipient does not have work authorization from USCIS.

- (a) TCVAP recipients might not possess a social security number or be authorized to work. Employment-directed education and training must be appropriate to the situation, therefore, if a recipient is technically or legally unable to participate s/he cannot be required to do so. If a recipient is unable to work or participate in a CWD approved employment-directed program due to lack of work authorization, s/he would not be required to participate in job search activities, or be referred to the Employment Development Department. Activities should be identified that will assist the recipient to prepare for future employment, such as English language training, job skills development, job-specific training, etc.

SPECIAL PROGRAMS

Regulations

TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM

70-105

70-105 TCVAP BENEFITS AND SERVICES (Continued)

70-105

.142 In addition to the exemptions from appropriate applicable work registration, employment and training requirements found at Section 69-207.3, an exemption shall be available to TCVAP recipients if physical or psychological trauma related to or arising from the victimization impedes their ability to comply, when verified by a physician's written statement that the illness or injury is serious enough to temporarily prevent his/her entry into an appropriate education/training program.

.15 Case Records (cross-reference Section 69-216)

A TCVAP applicant/recipient might not possess a passport, Alien Registration number, or any USCIS documentation. The case record shall include the following information in addition to that required by CalWORKs program regulations:

.151 Documentation gathered to verify trafficking status, as described in Section 70-102.2.

.152 The applicant's sworn statement.

(a) The county's written determination of the applicant's credibility if the sworn statement is the only evidence available.

.153 Documentation gathered for verifying that the applicant has filed or intends to file for a T Visa (see Sections 70-103.1 through .4).

.154 Documentation gathered for verifying that the applicant has filed for a U Visa (see Section 70-104.1).

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

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