

Amend Section 30-755.113 to read:

30-755 PERSONS SERVED BY THE NON-PCSP IHSS PROGRAM

30-755

.1 Eligibility

.11 A person is eligible for IHSS who is a California resident living in his/her own home, and who meets one of the following conditions: (Continued)

.113 Meets all SSI/SSP eligibility criteria, except for income in excess of SSI/SSP eligibility standards, ~~and~~ meets applicable share of cost obligations, and meets the state program noncitizen status as provided in MPP Section 30-770.51.
(Continued)

Authority cited: Sections 10553, 10554, and 12150, Welfare and Institutions Code; ~~and~~ Chapter 939, Statutes of 1992; and Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10554, 12304.5, 12305, 13283, ~~and~~ 14132.95, and 18945, Welfare and Institutions Code.

Adopt Sections 30-770.5 and .51 to read:

30-770 ELIGIBILITY STANDARDS (Continued)

30-770

.5 State Program NonCitizen Status

.51 A noncitizen victim of human trafficking, domestic violence or other serious crimes as defined under the Trafficking and Crime Victims Assistance Program (TCVAP), MPP Chapter 70-100, shall be eligible for IHSS if all other eligibility criteria are met.

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

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 40-037 to read:

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

- .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

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).

Amend Section 40-105.2 to read:

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

.2 Social Security Number (SSN)

.21 As a condition of eligibility, each ~~AFDC-FG and U~~ CalWORKs applicant or recipient member of the AU shall: (Continued)

.26 Individuals identified in Section 42-431.23, who are state-funded, are not required to meet this requirement. (Continued)

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; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10553, 10554, 10604, 11209, 11253.5, 11265.3, 11265.8, 11266, 11268, ~~and~~ 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).

Amend Section 42-430 to read:

42-430 CITIZENSHIP AND ~~ALIENAGE~~ NONCITIZEN STATUS

42-430

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

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

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 42-431 to read:

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: (Continued)

.2 ~~An alien~~ noncitizen who is: (Continued)

.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 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.

(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,

(2) 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

(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 purposes 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.

.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 42-715.12. 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

.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.

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.

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).

Amend Section 42-433 to read:

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

42-433

A citizen must prove his/her citizenship to be eligible, as provided in Section 42-433.2. ~~An alien~~ 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 ~~alien~~ noncitizen status. An applicant or recipient whose citizenship or ~~alienage~~ noncitizen status is evidenced by a document issued by the ~~Immigration and Naturalization Service (INS)~~ 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 ~~INS~~ USCIS when the county desires that his/her documentation be verified by ~~INS~~ 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. (Continued)

.3 Documentation – ~~Aliens~~ Noncitizens

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

.311 ~~Aliens~~ Noncitizens lawfully admitted for permanent residence (Section 42-431.21): ~~INS~~ 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 ~~Aliens~~ Noncitizens granted asylum or refugee status (Section 42-431.221(a) and (b) and 42-431.222): ~~INS~~ USCIS Form I-94, annotated with the term asylum or asylee, refugee or conditional entry or entrant.

.313 Parolees (Section 42-431.221(c)): ~~INS~~ 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 ~~INS~~ USCIS stating that the individual has been granted this status.

.32 ~~An alien~~ 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 Sections 42-431.221(c) and .23.

.33 Documentation submitted by the ~~alien~~ 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 ~~INS~~ USCIS in verifying his/her status. See Section 42-433.1. A ~~CA~~ CW 6 shall be completed by the applicant ~~which~~ shall be referred immediately to ~~INS~~ USCIS. If ~~INS~~ USCIS returns the ~~CA~~ CW 6 to the CWD and indicates that ~~INS~~ USCIS is unable to complete the verification process due to noncooperation by the ~~alien~~ noncitizen, the CWD shall delete the ~~alien~~ noncitizen from the ~~FBU~~ AU. An ~~alien~~ noncitizen who has been deleted from the ~~FBU~~ AU for this reason may complete another ~~CA~~ CW 6 but shall not be reinstated to the ~~FBU~~ AU until confirmation of eligible ~~alien~~ noncitizen status is received by the CWD from ~~INS~~ USCIS.

.4 Lack of Documentation

.41 If the ~~alien~~ 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 ~~INS~~ USCIS or otherwise obtain an ~~INS~~ USCIS document or other conclusive evidence verifying citizenship or eligible ~~alien~~ noncitizen status, or

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

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

.43 If the applicant does not wish to contact ~~INS~~ USCIS or give permission to the CWD to contact ~~INS~~ 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 ~~CA~~ CW 6 from ~~INS~~ USCIS

When an ~~alien's~~ noncitizen's eligibility has been confirmed by ~~INS~~ USCIS and the completed ~~CA~~ 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.

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).

Amend Section 42-711.5 to read:

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

.5 Assignment of Recipients to Welfare-to-Work Activities (Continued)

.53 Job Search (Continued)

.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: (Continued)

(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.
(Continued)

.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: (Continued)

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

(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.

(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. (Continued)

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).

Amend Section 49-020 to read:

49-020 IMMIGRATION STATUS

49-020

.1 General requirements

.11 To be eligible for CAPI, a non-citizen must be one of the following:

.111 a legal immigrant and 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.
(Continued)

.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 (Continued)

.22 Non-citizens 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 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. (Continued)

.3 (Continued)

.32 To be eligible for extended CAPI, a non-citizen who meets the definition of Qualified Alien, ~~or~~ 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. (Continued)

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, ~~and~~ 18944, and 18945, Welfare and Institutions Code.

Amend Section 49-030.1 to read:

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: (Continued)

.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). (Continued)

Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code.

Reference: Sections 13283, 18938, ~~and~~ 18939, and 18945 Welfare and Institutions Code.

Amend Section 49-060.1 to read:

49-060 BENEFIT SUSPENSIONS AND TERMINATIONS

49-060

.1 A recipient's CAPI benefit shall be suspended when any of the following events occur.
(Continued)

(k) The recipient's immigration status no longer meets the criteria specified in MPP Section 49-020.1. This specifically includes:

(1) A victim of human trafficking whose application for a T Visa has been finally administratively denied, or who has not applied for a T Visa within one year of the CAPI application date, or on whose behalf a request for continued presence has not been made within one year of the CAPI application date, the recipient has been issued a T Visa; or

(2) A victim of domestic violence or other serious crimes whose application for a U visa has been finally administratively denied.

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, whichever comes first.

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, ~~and~~ 18940, and 18945, Welfare and Institutions Code.

Amend Section 63-403 to read:

63-403 CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP)

63-403

.1 Noncitizen Eligibility

Certain legal noncitizens of the United States (U.S.) shall be eligible for CFAP if they are not eligible for federal Food Stamp (FS) benefits, based solely on their immigration status under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended by the Food Stamp Reauthorization Act of 2002. Legal presence can be verified through ~~INS~~ USCIS at application [i.e. Systematic Alien Verification for Entitlements (SAVE) System]. Legal noncitizens whose time limit has expired for the federal program but would otherwise remain eligible for federal benefits are eligible for CFAP.

.11 Victims of trafficking, domestic violence, or other serious crimes.

Welfare and Institutions Code Section 18945 established eligibility for this group of noncitizens. Eligibility rules are outlined in Sections 42-431.23, .3, .4, and .5.

.2 Application of Existing Regulations

Current federal FSP regulations contained in the State FSP Manual (Division 63 of the CDSS Manual of Policies and Procedures) will apply to the CFAP and its participants unless otherwise stated. For CFAP recipients who do not meet exemptions from deeming, the period for deeming of a sponsor's income and resources shall be three years from the date of the sponsor's execution of the ~~213aA~~ aAffidavit of ~~s~~Support. Victims of abuse by their sponsor or sponsor's spouse shall be exempt from deeming.

.21 Existing federal FSP regulations apply to victims of human trafficking, domestic violence, or other serious crimes, except where otherwise indicated.

.211 As a condition of eligibility, when the noncitizen victim of human trafficking, domestic violence, or other serious crimes does not have permission to work in the United States and the Social Security Administration will not issue a social security number, this requirement is suspended until such time as the individual's ability to obtain a social security number changes.

.3 CFAP work requirements are provided in Section 63-411.

.31 Trafficking, domestic violence, or other serious crime applicants shall not be subject to food stamp work requirements. This includes the Able-Bodied Adult Without Dependents (ABAWD) work requirement, and requirements for food stamp work registration and participation in the Food Stamp Employment and Training (FSET) program. In addition, recipients shall not be subject to penalties for voluntary quit and reduction of hours worked. However, this group may participate in other education or training to the extent such participation is permissible. (Continued)

Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 11320.3, 11495.12, 18930 through 18934, and 18945, Welfare and Institutions Code (as amended by AB 1111, Chapter 147, Statutes of 1999 and AB 429, Chapter 111, Statutes of 2001); 7 CFR 273.4; Federal Register, Vol. 61, No. 202, dated 10/17/96; Federal Register, Vol. 52, No. 103, dated May 29, 1987; USDA, Food and Consumer Service, Administrative Notice 97-105, dated August 21, 1997; and Section 4401(a) of the Food Stamp Reauthorization Act of 2002, P.L. 170-171 [8USC 1612(a) and 8USC 1613(c)].

Amend Section 69-201.3 to read:

69-201 GENERAL STATEMENT (Continued)

69-201

- .3 County Welfare Departments (CWDs) shall determine the eligibility of refugees in the Refugee Resettlement Program (RRP) for CalWORKs and 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). (Continued)

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 Code of Federal Regulations 400 and 400.5.

Amend Section 69-202 to read:

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

- .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: (Continued)
- .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 victim of a severe form of human trafficking or noncitizen victim of domestic violence or other serious crimes, see Chapter 70-100.) (Continued)
- .2 For purposes of determining eligibility for assistance and social services under RRP, the term "refugee" does not include: (Continued)
- .23 Any person determined eligible pursuant to Chapter 70-100 (TCVAP). (Continued)
- .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.) (Continued)

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).

Amend Section 69-205.2 to read:

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

.2 Eligibility Determination (Continued)

.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. (Continued)

.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. (Continued)

.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.

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).

Adopt Division 70, Chapter 70-100 and Section 70-101 to read:

DIVISION 70 SPECIAL PROGRAMS

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.

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.

Adopt Section 70-102 to read:

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.

HANDBOOK BEGINS HERE

- .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.

- .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.

HANDBOOK BEGINS HERE

- .31 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 a severe form of human trafficking.

HANDBOOK ENDS HERE

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.

Adopt Section 70-103 to read:

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

- .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.

HANDBOOK ENDS HERE

- .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.

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.

Adopt Section 70-104 to read:

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

.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.

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.

Adopt Section 70-105 to read:

70-105 TCVAP BENEFITS AND SERVICES

70-105

.1 Eligibility Procedures for TCVAP Benefits and Services Equivalent to Refugee Cash 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 apply 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.

(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.

.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).

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.