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Regulation Package # 0208-01

CDSS MANUAL LETTER NO. SP-09-01

TO: HOLDERS OF THE SPECIALIZED PROGRAMS MANUAL

**Regulation Package # 0208-01**

**Effective 02/05/09**

**Sections, 69-202, 70-102, 70-103, and 70-104,**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/Specialize\\_621.htm](http://www.dss.cahwnet.gov/ord/Specialize_621.htm).

Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) extended 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 federal law enforcement because s/he is assisting or willing to assist in the investigation or 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 noncitizen victims of human trafficking and noncitizen victims of serious crime are not eligible for federal programs. SB 1569 provides state-only funded 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 Social Services, California Work Opportunity and Responsibility to Kids (CalWORKs), 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 the amendments included in this manual letter are the result of issues raised at the public hearing held on August 13, 2008 and from further review of the emergency regulations by CDSS.

### **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-08-01.

	<u>Page(s)</u>	<u>Replace(s)</u>
	19 and 20	Pages 19 and 20
	55 through 60	Pages 55 through 60
Attachment		
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**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.



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**SPECIAL PROGRAMS**

**Regulations      TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM      70-102**

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**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.

.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.

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.

**70-103 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 federal law enforcement because s/he is assisting or willing to assist in the investigation or prosecution of human traffickers.
- .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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**SPECIAL PROGRAMS**

**Regulations      TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM      70-103**

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

.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  
ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES****70-104**

- .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) or (ii) of Title 8 of the U.S. Code. This section also applies to individuals who requested U Visa Interim Relief only if requested prior to October 17, 2007.

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**HANDBOOK BEGINS HERE**

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- .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).

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**HANDBOOK ENDS HERE**

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- .12 Acceptable documentation for verifying that an application for a U Visa has been filed or that U Visa Interim Relief was requested (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed before October 17, 2007) 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 request for U Visa Interim Relief (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was requested before October 17, 2007); 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); or

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**SPECIAL PROGRAMS**

**Regulations      TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM      70-104**

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

- .125    An Employment Authorization Document (EAD) issued under Category “A19” or “A20” for an approved U Visa petitioner.
  
- .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.

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**SPECIAL PROGRAMS**

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

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**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.

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**SPECIAL PROGRAMS**

**70-105 (Cont.)**

**TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM**

**Regulations**

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**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.