

SHD Paraphrased Regulations - Refugee Programs

720 Alien Status and Residency

Code Effective
ParaReg Text

721-2 REVISED 9/08

RCA is cash assistance provided to refugees who are ineligible for CalWORKs or SSI/SSP and who have resided in the United States for no longer than the period specified in federal regulations (the Code of Federal Regulations, or CFR) or in official issuances from the federal Director of the Office of Refugee Resettlement (ORR). This period of time is referred to as time eligibility. Time eligibility does not apply to determinations for state Trafficking and Crime Victims Assistance Program (TCVAP) cash aid (see Chapter 70-100) (§69-202.41, as revised effective July 1, 2008)

The time eligibility for RCA is limited, in general, to eight months. (Handbook §69-202.411; 45 CFR §§400.203 and 400.211)

721-2A ADDED 9/08

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.

(§69-205.241, as revised effective July 1, 2008)

722-2

Federal regulations require the following when notice is sent regarding RCA and other assistance program:

"In providing notice to an applicant or recipient to indicate that assistance has been authorized, denied, reduced, suspended or terminated, the State or its designee agency's must specify the program(s) to which the notice applies, clearly distinguishing between RCA and other assistance programs. For example, in the case of a public-administered program, if a refugee applies for assistance and is determined ineligible for TANF but eligible for refugee cash assistance, the notice to the applicant must specify clearly the determinations with respect both to TANF and to refugee cash assistance."

(45 Code of Regulations (CFR) §400.54(a)(3))

In addition, both state and federal regulations require that when a recipient is notified of termination because of reaching RCA time limits, the county must review the case file to determine possible eligibility for CalWORKs or GA. The notice must indicate the result of that determination as well as the RCA termination.

SHD Paraphrased Regulations - Refugee Programs

720 Alien Status and Residency

(§69-210.13; 45 CFR §400.53(a)(3))

726-1 ADDED 9/08

Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006), established the state Trafficking and Crime Victims Assistance Program (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. (§70-101)

726-1A ADDED 9/08

The county 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.

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. (§§70-102.1; 70-102.11 handbook)

726-1B ADDED 9/08

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:

- Police, government agency, or court records or files;
- News articles;
- 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;
- A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;
- Physical evidence;
- A copy of a completed visa application;
- Written notice from USCIS of receipt of the visa application.

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.

(§§70-102.2 and .3)