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Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001

Brian J. Wing
Commissioner

Administrative Directive

Section 1

Transmittal:	03 ADM 1
To:	Local District Commissioners
Issuing Division/Office:	Division of Temporary Assistance
Date:	January 29, 2003
Subject:	Eligibility of Alien Victims of Severe Forms of Trafficking in Persons
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors TOP Coordinators Staff Development Coordinators
Contact Person(s):	Temporary Assistance Policy - Central Team at 1-800-343-8859, extension 4-9344; Food Stamp Policy - Eastern Regional Team at extension 3-1469
Attachments:	Att. 1: Sample ORR Certification Letter; Att. 2: Sample ORR Letter for Children
Attachment Available On – Line:	<input checked="" type="checkbox"/>

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 ADM-25 97 ADM-23 96 ADM-7 00 INF-13 00 INF-13 Errata 02 ADM-7		18 NYCRR 373.1 349.3 387.1	PRWORA WRA P.L. 106-386	PASB Section XXIII-C-1 All FSSB Sections V-A-6.1 - 6.2 and V-B-3 (all)	96 LCM-86 97 LCM-21

Section 2

I. Purpose

This release explains the documentation and procedures local social services districts (districts) must use in determining the benefit eligibility of alien victims of severe forms of trafficking in persons.

II. Background

The Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386) (“the Act”) was enacted in October 2000 to combat trafficking through increased law enforcement. About 50,000 women and children are trafficked annually into the United States (U.S.) along with an unknown number of men. Traffickers force young women and children into prostitution, slavery and forced labor through coercion, threats of physical violence, psychological abuse, torture and imprisonment.

Section 107 of the Act makes victims of a severe form of trafficking in persons eligible for benefits and services under any federal or state program or activity that is funded or administered by a federal official or agency, provided they meet other program eligibility requirements such as income and resource limits. Victims of severe forms of trafficking are eligible for benefits to the same extent as aliens admitted to the U.S. as refugees under Section 207 of the Immigration and Nationality Act (INA). Although P.L. 106-386 makes trafficking victims eligible for benefits and services to the same extent as refugees, it does not confer refugee status to identified trafficking victims under immigration laws.

Severe forms of trafficking in persons is defined by the Act as any of the following activities:

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 is under 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.

There are two kinds of qualified victims: adults, who are certified by the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services; and children under 18 years of age, who do not have to be certified but who are issued a letter by ORR stating that the child is eligible for benefits as a victim of a severe form of trafficking in persons. Samples of the ORR adult certification letter (Attachment 1) and ORR child eligibility letter (Attachment 2) are attached. These letters are for benefits eligibility purposes only. Certification and eligibility letters issued before November 6, 2001 had 8-month expiration dates. ORR recertified these victims with a recertification letter or new eligibility letter; these letters have a lower case “r” beside the HHS tracking number. Recertification letters do not have expiration dates.

The ORR, after consultation with the Department of Justice and the Attorney General, may certify an adult (age 18 or over) as a victim of a severe form of trafficking if the individual:

- has been subjected to a severe form of trafficking in persons as defined;
- is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; **and**
- has made a bona fide application for a visa under section 101 (a) (15) (T) of the Immigration and Nationality Act (“T visa”) that has not been denied; or is a person whose continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

III. Program Implications

The ORR has been designated as the sole body with authority to certify individuals as trafficking victims. Hence, districts do not need to determine whether someone is a victim of a severe form of trafficking in persons. District workers who become aware of an immigrant who may meet the definition of a victim of a severe form of trafficking, but who has not applied for or yet received ORR confirmation of their status, may call Thomas A. Hart, Acting State Refugee Coordinator or Wanda L. Byrd, Program Analyst at 518- 402-3098.

Additional program implications include the following:

A. Temporary Assistance

Victims of severe forms of trafficking in persons are eligible for benefits to the same extent as refugees. This means that if they otherwise meet program eligibility requirements they can receive Family Assistance or Safety Net Assistance. Victims of severe forms of trafficking who meet the eligibility criteria for Family Assistance, including the 60-month time limit on cash benefits, are eligible for up to seven years from the certification/eligibility date contained in the

letter. A recertification letter does not extend a trafficking victim's seven-year period of benefit eligibility. Certified trafficking victims who meet the eligibility criteria for Safety Net Assistance are eligible because they are considered Persons Residing under the Color of Law (PRUCOL).

B. Refugee Match Grant

Certain trafficking victims may be eligible for a Refugee Match Grant. Trafficking victims are determined to be eligible for a Refugee Match Grant in the same manner as a refugee. The Match Grant Program is provided by certain local voluntary agencies affiliated to a national Voluntary Agency (VOLAG), which has a Cooperative Agreement with the U.S. Department of State. The purpose of the Match Grant Program is to help refugees attain self-sufficiency within four (4) months after arrival, or for asylees within four (4) months after asylum is granted, or for alien victims of trafficking within four (4) months after the date of the letter of certification or eligibility. During the client's Match Grant period, the voluntary agency is required to provide the client with sufficient resources to make the client ineligible for temporary assistance. Only employable persons can participate in the Match Grant Program.

C. Refugee Cash Assistance

Considered refugees for the purposes of program eligibility, trafficking victims are eligible for Refugee Cash Assistance (RCA). The RCA is a federal program that provides cash assistance to refugees, Cuban/Haitian entrants, asylees, and alien victims of trafficking in order to assist them to achieve self-sufficiency as soon as possible (section 373.1 of Title 18 NYCRR). Eligibility for Refugee Cash Assistance is limited to the eight-month period from the refugee's date of arrival, the asylee's date of status change, and the alien trafficking victim's certification date or eligibility date. A Match Grant recipient cannot receive Refugee Cash Assistance while enrolled in Match Grant.

Trafficking victims categorically ineligible for Family Assistance would receive Refugee Cash Assistance. Refugee Cash Assistance is paid under Safety Net Assistance (Case Type 16). However, it is 100% reimbursed by the federal government and requires State/Federal Charge code 30 (Refugee Assistance) for proper claiming.

D. Food Stamp Implications

Participation in the Food Stamp Program may increase slightly due to the new group of potentially eligible persons. Trafficking victims' eligibility for food stamp benefits is summarized as follows:

- Eligible for first 7 years from date of entry (from the ORR certification or eligibility letter) in the U.S.
- After 7 years in the U.S.: eligible for food stamp benefits if they meet one of the following criteria:
 - (a) In receipt of disability or blindness benefits, as described in 02 ADM-7 (effective October 1, 2002); **or**
 - (b) Effective April 1, 2003, they will be eligible because they have resided in the U.S. as a qualified alien for at least five years; **or**
 - (c) Lawfully admitted for permanent residence (LPR) with 40 qualifying quarters; **or**
 - (d) Lawfully residing in the U.S. on August 22, 1996, **and**
 - Disabled according to Food Stamp Source Book (FSSB) V-A-6.1 – 6.2, or
 - 65 or older on 8/22/96 (i.e. born before 8/22/31), or
 - Under 18.

E. Medical Assistance Implications

Individuals with letters of certification or eligibility as victims of severe forms of trafficking are eligible for medical assistance. They retain this eligibility for seven years from the date of certification/eligibility contained in the letter.

IV. Required Action

In determining temporary assistance and food stamp benefit eligibility for trafficking victims, districts should follow regular procedures for refugees, with the following additional steps:

- (a) Accept the ORR certification letter for adult trafficking victims or ORR letter for child trafficking victims as proof of alien status for eligibility for benefits. Districts must not require Immigration and Naturalization Services (INS) documentation of immigration status from trafficking victims, although such documents, if available, may be used to verify identity.
- (b) Require applicants to submit the original ORR certification letter or ORR child letter, retain a copy of the letter in the case record, and return the original letter to the applicant.
- (c) Check that the expiration date in the ORR letter has not passed. Advise applicants with expired ORR letters that they must obtain current ORR letters to validate their status as trafficking victims.
- (d) Call the trafficking verification line at 1-866-401-5510 to validate the ORR letter before providing benefits. During this verification phone call, districts should also notify ORR of the benefits for which the client has applied. Information about trafficking victims is not available in the INS Systematic Alien Verification for Entitlement (SAVE).
- (e) Ascertain if the trafficking victim is receiving a refugee match grant. Trafficking victims receiving a match grant are ineligible for temporary assistance for four months from the date of the certification letter of eligibility.
- (f) Determine eligibility for Family Assistance and issue benefits to trafficking victims who meet the eligibility criteria for Family Assistance. **Note:** Many trafficking victims will not be categorically eligible for Family Assistance.
- (g) Trafficking victims ineligible for Family Assistance are eligible for RCA and would be issued benefits under Safety Net Assistance (Case Type 16).
- (h) Assist victims of trafficking to apply for non-work Social Security numbers if they do not yet have Social Security numbers.

V. Systems Implications

A. Upstate WMS:

Districts should use new citizenship/alien code “D – Victim of Human Trafficking”, which was made available with the November 18, 2002 WMS migration, to identify victims of severe forms of trafficking in persons. Record, as the individual’s entry date into the U.S., the certification date found in the body of the ORR certification letter for adults, or the initial eligibility date in the ORR letter for children.

B. New York City WMS:

Trafficking victims should be coded as “R – Person Admitted as Refugee” in WMS. Workers will be notified when new code “D – Victim of Human Trafficking” is available in WMS. Record the certification date found in the body of the ORR certification letter for adults, or the initial eligibility date in the ORR letter for children, as the individual’s entry date into the U.S.

VI. Additional Information

Recipients of a ‘T’ visa are eligible for employment authorization. ‘T’ visa recipients also may, if eligible, adjust their status to that of lawful permanent resident after three years. Trafficking victims may also be sponsored or apply for other immigration benefits such as an ‘S’ visa or asylum. Victims may contact INS or use the toll-free Trafficking in Persons and Worker Exploitation Task Force complaint line at 1-888-428-7581 for further information.

Trafficking victims who are applicants for or recipients of temporary assistance may be referred to local refugee resettlement agencies and refugee social services agencies for employment services and support, as indicated in 96 ADM-7.

VII. Effective Date

Districts must implement the requirements of this directive beginning February 1, 2003.

Issued By

Name: Patricia A. Stevens

Title: Deputy Commissioner

Division/Office: Temporary Assistance

HHS Tracking Number
5555555555

Ms. Susie Doe
c/o Jim Thomas, Refugee Social Worker
Smith County Community Service Office
123 Main St.
Bellevue, WA 55555-5555

CERTIFICATION LETTER

Dear Ms. Doe:

This letter confirms that you have been certified by the U.S. Department of Health and Human Services (HHS) pursuant to section 107(b) of the Trafficking Victims Protection Act of 2000. Your certification date is _____. This certification is valid for eight months from the date of this letter. The expiration date is _____.

At the end of your 8-month certification period you will be re-certified, provided you continue to qualify under the appropriate provisions of the Trafficking Victims Protection Act of 2000. Certification does not confer immigration status.

With this certification, you are eligible for benefits and services under any Federal or State program or activity funded or administered by any Federal agency to the same extent as an individual who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act, provided you meet other eligibility criteria. Please note that due to variations among state rules, your eligibility for benefits may end on a different date than the expiration date listed above.

You should present this letter when you apply for benefits or services. Benefit-issuing agencies should call the trafficking verification line at (202) 401-5510 to verify the validity of this document and to inform HHS of the benefits for which you have applied.

Sincerely,

Carmel Clay-Thompson
Acting Director
Office of Refugee Resettlement

HHS Tracking Number
5555555555

Ms. Susie Doe
c/o Jim Thomas, Refugee Social Worker
Smith County Community Service Office
123 Main St.
Bellevue, WA 55555-5555

Dear Ms. Doe:

This letter confirms that, pursuant to section 107(b) of the Trafficking Victims Protection Act of 2000, you are eligible for benefits and services under any Federal or State program or activity funded or administered by any Federal agency to the same extent as an individual who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act, provided you meet other eligibility criteria.

Your initial eligibility date is _____. This eligibility is valid for eight months from the date of this letter. The expiration date is _____.

After this letter expires you will be issued a new letter, provided you continue to qualify under the appropriate provisions of the Trafficking Victims Protection Act of 2000. This letter does not confer immigration status.

You should present this letter when you apply for benefits or services. Benefit-issuing agencies should call the trafficking verification line at (202) 401-5510 to verify the validity of this document and to inform HHS of the benefits for which you have applied.

Sincerely,

Carmel Clay-Thompson
Acting Director
Office of Refugee Resettlement