



**George E. Pataki**  
Governor

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

**Robert Doar**  
Commissioner

## Administrative Directive

### Section 1

<b>Transmittal:</b>	04-ADM-08
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Temporary Assistance
<b>Date:</b>	December 21, 2004
<b>Subject:</b>	Expansion of Eligibility of Alien Victims of Severe Forms of Trafficking in Persons
<b>Suggested Distribution:</b>	Temporary Assistance Directors Food Stamp Directors TOP Coordinators Staff Development Coordinators
<b>Contact Person(s):</b>	Food Stamp Policy – Food Stamp Bureau at 1-800-343-88559, extension 3-1469 Temporary Assistance Policy – Cash Assistance Bureau at 1-800-343-8859, extension 4-9344 Medicaid Local District Liaison: Upstate (518) 474-8216 & NYC (212) 268-6855
<b>Attachments:</b>	LDSS-4579 (Rev. 12/04): Alien Eligibility Desk Aid
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
04 ADM-04 03 ADM-01 02 ADM-07 97 ADM-25 97 ADM-23 98 INF-5		18 NYCRR 349.3 373 387.1	P.L. 108-193 P.L. 106-386		

### Section 2

#### I. Purpose

This directive informs local districts of the expansion of the Trafficking Victims designation. Trafficking victims' eligibility for temporary assistance (TA), food stamps benefits (FS) and Medicaid was described in 03 ADM-01, and their eligibility for refugee cash assistance (RCA) and refugee medical assistance (RMA) was described in 03 ADM-01 and 04 ADM-04.

## II. Background

As a result of the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA - P.L. 108-193), the categories of non-citizens eligible to participate in federally funded or administered benefits and services under the Trafficking Victims Protection Act of 2000 (TVPA - P.L. 106-386) have been expanded. Eligibility was originally limited to the victims themselves. Effective December 19, 2003, the eligible population now includes holders of T-2, T-3, T-4 or T-5 visas (“Derivative T visas”) who are the minor children, spouses and, in some cases, the parents and siblings of victims of severe forms of trafficking in persons.

## III. Program Implications

The United States Bureau of Citizenship and Immigration Services (USCIS) may issue a victim of trafficking with a visa designated T visa. If the T visa holder is under 21, Derivative T visas are available to the victim’s spouse, children, parents and unmarried siblings under 18. If the T visa holder was age 21 or over when the T visa application was filed, Derivative T visas are available to the victim’s spouse and children. For an individual who is already living in the United States on the date the Derivative T Visa is issued, the date of entry for federally funded or administered benefits and services is the Notice Date on the I-797, Notice of Action of approval for that individual T Visa. For an individual who enters the United States on the basis of a Derivative T Visa, the date of entry for federally funded or administered benefits and services is the date of entry stamped on that individual’s passport or I-94 Arrival Record. Holders of Derivative T visas are eligible for federally funded or administered benefits to the same extent as direct victims of severe trafficking, provided they meet the other eligibility criteria for the programs.

- A. **Food Stamp program:** Non-citizens classified as victims of severe trafficking, as well as their relatives who hold Derivative T visas, are eligible to participate in the FSP to the same extent as non-citizens classified as refugees, if otherwise eligible.
- B. **Temporary Assistance:** Victims of severe forms of trafficking 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).
- C. **Medicaid:** Non-citizens classified as victims of severe trafficking (T-visa holders/T-1 status) as well as their relatives who are holders of T-2, T-3, T-4 and T-5 visas (Derivative T visas) may receive Medicaid /Family Health Plus/Child Health Plus A benefits to the same extent as non-citizen refugees, if otherwise eligible. (See GIS message 02 MA/022 and GIS Message 03 MA/005)
- D. **Refugee Cash Assistance:** See 04 ADM 04.
- E. **Refugee Medical Assistance:** Non-citizens classified as victims of severe trafficking, as well as their relatives who hold Derivative T visas, are eligible to participate in the Refugee Medical Assistance (RMA) program and may receive benefits to the same extent as non-citizen refugees,

if otherwise eligible. For victims of trafficking, Refugee Medical Assistance (RMA) benefits are currently limited to the first eight months beginning with the date found within the Office of Refugee Resettlement's (ORR) certification letter for adult victims of trafficking or letter of eligibility for a victim of trafficking under age 18. For derivative T visa holders, RMA benefits are limited to the first eight months beginning with the Notice Date on the I-797 "Notice of Action for approval" or the date of entry stamped on that individual's passport or I-94 Arrival Record.

If a certified victim of trafficking who is receiving RMA receives increased earnings from employment, the increased earnings do not affect his/her continued medical assistance eligibility. The individual should continue to receive RMA until he/she reaches the end of his/her time-eligibility period. If the individual is no longer eligible for Refugee Cash Assistance (RCA), a separate determination must be made for Medicaid. (see 04-ADM-04).

#### **IV. Required Action**

Districts must determine program eligibility for holders of Derivative T visas in the same manner as for victims of trafficking. Districts should call the toll-free trafficking verification hotline at 1-866-401-5510 to notify the Office of Refugee Resettlement when a trafficking victim or a holder of a Derivative T visa applies for benefits. The Systematic Alien Verification for Entitlements (SAVE) system does not contain information about trafficking victims or their family members.

#### **V. Systems Implications**

Trafficking victims and holders of Derivative T visas are assigned Citizenship/Alien Indicator code 'D' in Upstate WMS and Alien/Citizenship Indicator 'R' in New York City WMS.

#### **VI. LDSS-4579 : "Alien Eligibility Desk Aid" Forms Revision Information**

The LDSS-4579: "Alien Eligibility Desk Aid" continues to assist staff in identifying appropriate alien status as established under the federal Immigration and Nationality Act and to relate that status to individuals' eligibility for Temporary Assistance, Food Stamp Benefits and/or Medicaid.

As a result of the expansion of the Trafficking Victims designation, the desk aid is being revised to include the new designations

The following are the revisions to the 7/03 version of the LDSS-4579: Alien Eligibility Desk Aid, for the revised 11/04 version:

All Pages:

1. The reminder at the bottom of each of the pages was changed to include the following new last sentence:

Children may be provided medical assistance without regard to immigration status under CHIP B program.

2. The revision date was changed to 11/04 on every page.

Page 4:

1. The common documentation in the “VAWA” (Violence against Women Act) section was revised (new wording is underlined) to read:

I-797- indicating approved, pending or prima facie eligibility of VAWA Self-Petition (I-360) (Petitioning by self-petitioning immigrant of abusive U.S.C. or LPR) under Section 204(a)(1)(iii) or (iv), or Section 204(a)(1)(B)I (i) or (iii) **or**

Order from EOIR granting of suspension of deportation under Section 244(a)(3) or cancellation of removal under Section 240A(b)(2) or evidence that an application has been filed setting forth a prima facie case **or**

Evidence of battery and abuse and proof of a pending or approved 1-130 petition including:

I-797 indicating approved or pending I-130 (visa petition) under Section 201(b) of the INA (spouse or child of a U.S. citizen or Section 203(a)(2)(A) spouse or child of a permanent resident

I-94 coded CR-1-7, K3, K4, V1 or V2

I-688B or I-766 (Employment Authorization) annotated (a)(9) or (a)(15)

2. The “Victim of Human Trafficking” section was revised to include additional I-94 codes, “T3”, “T4” and “T5”.
3. In the “Parolee” section in the “Relevant Date For Eligibility” column, “or” was changed to “on”.

Page 5:

1. In the “Medicaid” column of the “Parolee” section, “No” was changed to “Yes”.
2. For the “PRUCOL” section in the number 2 subscript explanation at the bottom of the page, the policy communication reference was changed to “GIS 04 MA/003 ATTACHMENT 1”.
3. For the “PRUCOL” section the number 3 subscript explanation at the bottom of the page was deleted.

#### Ordering information:

As in previous printings, the revised desk aid will be printed on green cardstock. We expect that the revised desk aids should be delivered to the Albany Warehouse sometime in February, 2005.

Local districts will automatically receive initial supplies of this form.

Any future requests for additional supplies of the LDSS-4579: “Alien Eligibility Desk Aid, should be submitted on OTDA-876 (Rev.6/98): “Request for Forms or Publications” form, and should be sent to:

Office of Temporary and Disability Assistance  
Document Services  
P.O. Box 1990  
Albany, New York 12201

Questions concerning ordering forms should be directed to Document Services at 1-800-343-8859, ext.4-9522.

In addition, for local district staff, electronic PDF versions of all of the notices referenced in this INF can be accessed on the OTDA Intranet website at [http://sdssnet5/otda/ldss\\_eforms/default.htm](http://sdssnet5/otda/ldss_eforms/default.htm).

**VII. Effective Date**

Districts must implement the requirements of this directive beginning January 3, 2005 retroactive to December 19, 2003.

**Issued By** \_\_\_\_\_

**Name:** Russell Sykes  
**Title:** Deputy Commissioner  
**Division/Office:** Division of Temporary Assistance

Description of Status	WMS/ACI Code	Common Documentation	Relevant Date for Eligibility	Medicaid <sup>1</sup>	Family Assistance	Safety Net Assistance	Food Stamp Benefits
Refugees	R	<p><b>I-94:</b> stamped "Admitted under Section 207 of the INA," "Refugee," "RE1, RE2, RE3, or RE4" <b>or</b></p> <p><b>I-551:</b> stamped "R8-6, RE5, RE6, RE7, RE8 or RE9" <b>or</b></p> <p><b>I-571:</b> Refugee Travel Document <b>or</b></p> <p><b>I-688B:</b> Employment Authorization Card annotated with "274a12(a) (3)" <b>or</b></p> <p><b>I-766:</b> Employment Authorization Card annotated "A3"</p>	Entry				
Cuban/Haitian Entrants	H	<p><b>I-94:</b> stamped "Cuban/Haitian Entrant (status pending)," "Section 212(d) (5) of the INA," "Form I-589 filed," or "CU6," or CU7" <b>or</b></p> <p><b>I-94</b> stamp showing parole under Section 212(d)(5) of INA or stamp showing parole in US on or after 10/10/80 and reasonable evidence that parolee has been a National (citizen) of Cuba or Haiti<sup>2</sup> <b>or</b></p> <p><b>I-551:</b> stamped "CU6, CU7, or CH6" <b>or</b></p> <p>Temporary <b>I-551</b> stamp in foreign passport. <b>or</b></p> <p>INS notice or letters indicating ongoing exclusion or deportation proceedings <b>or</b></p> <p>A letter from BCIS indicating individual applied for asylum.</p>	Status Granted			Yes	
Asylees	A	<p><b>I-94:</b> stamped "Granted asylum under Section 208 of the INA" <b>or</b></p> <p><b>I-551:</b> Stamped "AS1,AS2, AS3, AS6, AS7, or AS8" <b>or</b></p> <p><b>I-688B:</b> Employment Authorization Card annotated with "274a12(a)(5)" <b>or</b></p> <p><b>I-766:</b> Employment Authorization Document annotated "A.5" <b>or</b></p> <p>Grant letter from BCIS Asylum Office <b>or</b></p> <p>Order of an immigration judge granting asylum.</p>					

<sup>1</sup>REMINDER: Undocumented immigrants and non-immigrants may receive coverage for care and services necessary for the treatment of *emergency* medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible. Pregnant women may be provided Medicaid *at any time* without regard to alien status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under CHIP B program.

<sup>2</sup>EXCEPTION: This guideline does not apply when the individual was paroled solely to testify as a witness in a judicial, administrative or legislative proceeding or when the parolee is in legal custody pending criminal prosecution.

Description of Status	WMS/ACI Code	Common Documentation	Relevant Date for Eligibility	Medicaid <sup>1</sup>	Family Assistance	Safety Net Assistance	Food Stamp Benefits
Amerasian Immigrants	R	<p><b>I-94:</b> stamped "AM1, AM2 or AM3, AM6, AM7, AM8." Derive date of entry from date of inspection on stamp; if date is missing, obtain from I-551 or from BCIS</p> <p><b>or</b></p> <p><b>I-551:</b> stamped "AM1, AM2, AM3, AM6, AM7, or AM8"</p> <p><b>or</b></p> <p>Temporary <b>I-551</b> stamp in foreign passport</p> <p><b>or</b></p> <p><b>1-571:</b> Refugee Travel Document</p> <p><b>or</b></p> <p>Vietnamese exit visa or passport stamped "AM1, AM2, or AM3"</p>	Entry				
Deportation or Removal Withheld	J	<p><b>I-688B:</b> Employment Authorization Card annotated with "274a12(a)(10)"</p> <p><b>or</b></p> <p><b>I-766:</b> Employment Authorization Document annotated "A10"</p> <p><b>or</b></p> <p>Order from Immigration Judge showing the date deportation was withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of INA</p>				Yes	
Certain Hmong or Highland Laotian	Z	<p><b>I-94:</b> stamped "Admitted under Section 207 of the INA," "Refugee," "RE1, RE2, RE3, or RE4"</p> <p><b>or</b></p> <p><b>INS I-551:</b> Stamped "RE5, RE6, RE7, RE8, or RE9"</p> <p><b>or</b></p> <p>Has a signed affidavit sworn under penalty of law that s/he was a member of Hmong or Highland Laotian tribe between 8/5/64 and 5/7/75 or a verified spouse*, widow, widower or unmarried dependent of a tribal member</p> <p><b>and</b></p> <p>Documents to show lawfully residing in the US</p> <p><b>*Divorced spouses do not qualify</b></p>	Status Granted				

<sup>1</sup>REMINDER: Undocumented immigrants and non-immigrants may receive coverage for care and services necessary for the treatment of *emergency* medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible. Pregnant women may be provided Medicaid *at any time* without regard to alien status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under CHIP B program.

Description of Status	WMS/ACI Code	Common Documentation	Relevant Date for Eligibility	Medicaid <sup>1</sup>	Family Assistance	Safety Net Assistance	Food Stamp Benefits
* Lawfully Admitted For Permanent Residence (LPR) with 40 Qualifying Quarters	S	<u>I-551</u> : (Alien Registration Card) or Temporary <u>I-551</u> stamp in foreign passport or on <u>I-94</u>	Entered Before 8/22/96	Yes			
		<u>I-327</u> : (Re-entry Permit) or <u>I-181</u> : Memorandum of Creation of Lawful Permanent Residence with approval stamp and <b>Proof of qualifying quarters</b>	Entered On/After 08/22/96	Yes	Yes, after 5 years in US	Yes	
Lawfully Admitted For Permanent Residence (LPR) without 40 Qualifying Quarters	K	<u>I-551</u> : (Alien Registration Card) or Temporary <u>I-551</u> stamp in foreign passport or on <u>I-94</u> .	Entered Before 8-22-96	Yes			
		<u>I-327</u> (Re-entry Permit) or <u>I-181</u> : Memorandum of Creation of Lawful Permanent Residence with approval stamp	Entered On or After 08/22/96	Yes	Yes, after 5 years in US	Yes	<ul style="list-style-type: none"> <li>• In receipt of disability benefits or</li> <li>• After five years in US in qualified status or</li> <li>• Under age 18 (effective 10/1/03)</li> </ul>
Veteran, spouse, unmarried surviving spouse and unmarried dependent child of a U.S. veteran who fulfilled minimum active duty requirement (2 years)	V	A Discharge Certificate ( <b>Form DD-214</b> ) that states "Honorable." A character of discharge "Under Honorable Conditions" is not an "Honorable Discharge" for these purposes. Narrative Reason for Separation block must not state that discharge was for reason of "alienage" or lack of U.S. citizenship	Status Granted	Yes			
Active Military: Active duty or a member of the Armed Forces on full-time duty in the Army, Navy, Air Force, Marine Corps or Coast Guard, spouse and children	M	Military Identification Card ( <b>DD Form 2</b> ) (Active) that lists an expiration date of more than one year from the date of determination. If ID card is due to expire within one year from the date of determination use a copy of current military orders	Status Granted	Yes			
Conditional Entrant (status granted to refugees before 1980)	F	<u>I-94</u> with stamp showing admitted under Section 203(a)(7) of INA or <u>I-688B</u> (Employment Authorization Card) annotated "274a12(a) (3)" or <u>I-766</u> (Employment Authorization Document) annotated "A1," "A3"	Entry	Yes			

\*No quarters earned after 12/3/96 may be counted in which an alien has received a Federal means-tested public benefit (FA, SSI, Food Stamps, or Medicaid.)

<sup>1</sup>REMINDER: Undocumented immigrants and non-immigrants may receive coverage for care and services necessary for the treatment of *emergency* medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible. Pregnant women may be provided Medicaid *at any time* without regard to alien status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under CHIP B program.



**ALIEN ELIGIBILITY DESK AID**

Description of Status	WMS/ACI Code	Common Documentation	Relevant Date for Eligibility	Medicaid <sup>1</sup>	Family Assistance	Safety Net Assistance	Food Stamp Benefits
A US citizen's or LPR's battered spouse or child, or parent or child of such person, who obtains "Notice of Prima Facie Case from BCIS" or found prima facie eligible under the Violence Against Women Act (VAWA)	B	<b>I-797</b> - indicating approved, pending or prima facie eligibility of VAWA Self-Petition (I-360) (Petitioning by self-petitioning immigrant of abusive U.S.C. or LPR) under Section 204(a)(1)(iii) or (iv), or Section 204(a)(1)(B)I (i) or (iii) <b>or</b> Order from EOIR granting of suspension of deportation under Section 244(a)(3) or cancellation of removal under Section 240A(b)(2) or evidence that an application has been filed setting forth a prima facie case <b>or</b> Evidence of battery and abuse and proof of a pending or approved 1-130 petition including: <b>I-797</b> indicating approved or pending I-130 (visa petition) under Section 201(b) of the INA (spouse or child of a U.S. citizen or Section 203(a)(2)(A) spouse or child of a permanent resident  I-94 coded CR-1-7, K3, K4, V1 or V2  I-688B or I-766 (Employment Authorization) annotated (a)(9) or (a)(15)	Entered Before 8/22/96	Yes			
			Entered On/After 8/22/96	Yes	Yes, after 5 years in US	Yes	<ul style="list-style-type: none"> <li>In receipt of disability benefits or</li> <li>After five years in US in qualified status or</li> <li>Under age 18 (effective 10/1/03) or</li> <li>40 qualifying quarters</li> </ul>
Victim of Human Trafficking	D	Certification Document (for adults) or Eligibility Letter (for children) from the Office of Refugee Resettlement (ORR); Must call 1-866-401-5510 for verification <b>or</b> <b>I-94</b> Coded T1, T2, T3, T4 or T5 stating admission under Section 212(d)(5) of the INA if status granted for at least one year	Entry <sup>2</sup>	Yes			
Parolee (for at least one year) (Non-citizens who have been allowed to come into the U.S. for humanitarian or public interest reasons)	G	<b>I-94</b> with annotation "Paroled pursuant to Section 212(d)(5) or "parole" or PIP" with date of entry and date of expiration indicating one year <b>or</b> <b>I-688B</b> annotated "Section 274a. 12(a)(4), 274(a) 12(c)(11)" <b>or</b> <b>I-766</b> annotated "C11" or A4, and I-94 indicating admitted for at least one year	Lawfully Residing in U.S. on 8/22/96	Yes			
			Entered on or after 8/22/96	Yes	Yes, after 5 years in US	Yes	<ul style="list-style-type: none"> <li>In receipt of disability benefits or</li> <li>After five years in US in qualified status or</li> <li>Under age 18 (effective 10/1/03) or</li> <li>40 qualifying quarters</li> </ul>

<sup>1</sup> REMINDER: Undocumented immigrants and non-immigrants may receive coverage for care and services necessary for the treatment of *emergency* medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible. Pregnant women may be provided Medicaid *at any time* without regard to alien status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under CHIP B program.

<sup>2</sup> For a Victim of Human Trafficking, ENTRY means the date of Certification by the Office of Refugee Resettlement (ORR) – See 03 ADM-1.

Description of Status	WMS/ACI Code	Common Documentation	Relevant Date for Eligibility	Medicaid <sup>1</sup>	Family Assistance	Safety Net Assistance	Food Stamp Benefits
Parolee (for less than one year)	T	<b>I-94</b> with annotation "Paroled pursuant to Section 212(d)(5) or "parole" or PIP" or <b>I-688B</b> coded 274a.12(a)(4) or 274a12(c)(11) or <b>I-766</b> coded A4 or C11		Yes	No	Yes	No
North American Indian born in Canada	To be determined (PA)  C (MA)	<b>I-551</b> : (Alien Registration Card): stamped "S13;" temporary <b>I-551</b> stamp in a Canadian passport or <b>I-94</b> stamped "S13" or A letter or other tribal document certifying at least 50% American Indian blood, as required by Section 289 of the INA or School records, or A birth or baptismal certificate issued on a reservation, or Other satisfactory evidence of birth in Canada	NA			Yes	
Member of federally recognized tribe born outside U.S.	To be determined (PA) C (MA)	Membership card or other tribal document demonstrating membership in a federally recognized Indian tribe under Section 4(e) of the Indian Self-Determination and Education Assistance Act					
PRUCOL (not in any of above statuses)	O (PA & MA) N (MA) <sup>3</sup>	See PASB Section XXIII See 6-15-01 MA-026 ATTACHMENT B	NA	Yes <sup>2</sup>	No <sup>2</sup>	Yes <sup>2</sup>	No
Undocumented immigrants or non-immigrants (aliens with a temporary immigration status)	E		NA	Treatment of emergency medical condition only <sup>1</sup>			No

<sup>1</sup> REMINDER: Undocumented immigrants and non-immigrants may receive coverage for care and services necessary for the treatment of *emergency* medical conditions only, not including care and services related to an organ transplant procedure, if otherwise eligible. Pregnant women may be provided Medicaid *at any time* without regard to alien status, if otherwise eligible. Children may be provided medical assistance without regard to immigration status under CHIP B program.

<sup>2</sup> PRUCOL refers to aliens who are permanently residing in the US under Color of Law. A description of TA PRUCOL can be found in 88 INF-77 and Temporary Assistance Source Book Section XXIII. A description of MA PRUCOL can be found in GIS 04 MA/003 ATTACHMENT 1.

## ALIEN ELIGIBILITY DESK AID

## Bureau of Citizenship and Immigration Services (BCIS – Formerly INS) Documents

I-94	Arrival/Departure Record	I-571	Refugee Travel Document
I-181	Memorandum of Creation of Record of Lawful Permanent Residence	I-688	Temporary Resident Card
I-210	Voluntary Departure	I-688A	Employment Authorization For Legalization Applicants
I-220B	Order of Supervision	I-688B	Employment Authorization Card
I-327	Reentry Permit of permanent residents	I-766	Employment Authorization Card
I-551	Legal Permanent Resident Card, Resident Alien Card or “green card”	I-797	Notice of Action (1-797C current version)