

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



August 8, 2007

ALL COUNTY INFORMATION NOTICE NO. I-41-07

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY REFUGEE COORDINATORS
 ALL COUNTY WELFARE FISCAL OFFICERS
 ALL COUNTY FOOD STAMP COORDINATORS
 ALL COUNTY CIVIL RIGHTS COORDINATORS
 ALL COUNTY WELFARE-TO-WORK COORDINATORS
 ALL COUNTY CONSORTIUM PROJECT MANAGERS
 ALL COUNTY CALIFORNIA WORK OPPORTUNITY AND RESPONSIBILITY TO
 KIDS (CaWORKs) PROGRAM SPECIALISTS
 ALL COUNTY CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)
 PROGRAM MANAGERS
 ALL COUNTY IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM
 MANAGERS
 MEMBERS OF THE STATE ADVISORY COUNCIL ON REFUGEE ASSISTANCE
 AND SERVICES

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation
 Change
 Court Order
 Clarification Requested by
 One or More Counties
 Initiated by CDSS

SUBJECT: SENATE BILL (SB) 1569 (Chapter 672, Statutes of 2006), POST-
 IMPLEMENTATION QUESTIONS AND ANSWERS

REFERENCE: ALL COUNTY LETTER (ACL) 06-60

SB 1569 (Chapter 672, Statutes of 2006), effective January 1, 2007, created a new state program providing eligible, noncitizen victims of human trafficking and victims of domestic violence or other serious crimes the same benefits and social services available to refugees. ACL 06-60, distributed by the California Department of Social Services (CDSS) on December 21, 2006, contained detailed information about the new law and provided implementing instructions for county welfare departments (CWDs). This letter, in a "Question and Answer" format, provides further policy clarification and responses to questions regarding some of the issues pertaining to the provisions of SB 1569. Please note that the state-only program equivalent to Refugee Cash Assistance (RCA) has been entitled the Trafficking and Crime Victims Assistance Program (TCVAP).

The circumstances and experiences of noncitizen victims of human trafficking and serious crimes present a special challenge in assisting them. Attached to this letter are suggested

screening tools and resources from the United States Department of Health and Human Services' Administration for Children and Families (ACF) for your use in determining if an applicant is a potential victim of human trafficking. ACF has launched a campaign to rescue and restore victims of human trafficking and provides many valuable informational resources that may be accessed at:

<https://www.acf.hhs.gov/otip>

SWORN STATEMENT—TRAFFICKING VICTIM

A sworn statement by a noncitizen trafficking victim pursuant to SB 1569 is sufficient to verify trafficking status if at least one additional item of evidence is provided (see ACL No. 06-60, Page Four). In the absence of additional evidence, a sworn statement by a victim shall be sufficient if the CWD makes a determination documented in the case file that the applicant is credible.

1. Q. How do we determine that an applicant is "credible" for purposes of establishing trafficking status?
 - A. The credibility of an SB 1569 applicant for purposes of accepting his/her sworn statement in a trafficking case is determined by using the same method used in domestic abuse cases, as defined in Manual of Policies and Procedures (MPP) Section 42-715.12. A sworn statement is acceptable unless there is an independent, reasonable basis for finding the applicant not credible. The finding of credibility (or lack thereof) must be documented in the case record.
2. Q. Is a sworn statement sufficient to establish the status of a victim of other serious crime applying for benefits under the U Visa provisions?
 - A. No. For purposes of aiding an individual under SB 1569, a victim of other serious crime (including domestic abuse) must have filed for or have been granted a U Visa or U Visa Interim Relief in order to be eligible (see ACL 06-60, Page Seven).

U VISA INTERIM RELIEF APPROVAL (FORM I-797) – CRIME VICTIM

1. Q. For purposes of verifying that an applicant has filed for U Visa Interim Relief, s/he has presented a federal Notice of Action (Form I-797) approving his/her request. The I-797 indicates a "Deferred Action Validity Period" of one year, with an end date. What does "Deferred Action Validity Period" on the I-797 mean?
 - A. Approval of a request for U Visa Interim Relief provides two things; deferral from removal (from the country) and eligibility to apply for an employment authorization

document (EAD). Deferred action is a mechanism for noncitizen victims of crime to stay in the U.S. legally and work. Once an individual obtains her/his EAD, s/he may apply for a restricted SSN, which allows her/him to be employed (when the SSN is presented in conjunction with immigration papers, in this case, U Visa Interim Relief approval). The I-797 approving U Visa Interim Relief will usually indicate a "Deferred Action Validity Period" with an end date (typically a year). An extension of the EAD may be requested prior to its expiration and, upon approval, will automatically extend deferred action status as well. (An extension of deferred action alone may also be requested if an EAD is not desired or needed.) Cases in which a request to extend the EAD has not been made prior to the expiration date should be reviewed to determine if work registration and employment and employment-directed education/training requirements are being fulfilled.

2. Q. Once an applicant receives approval of U Visa Interim Relief, is s/he required to apply for an EAD and SSN?

A. Yes. As a condition of eligibility, a nonexempt applicant/recipient with an opportunity to obtain an SSN/EAD is required to do so in order to comply with registration, employment, and employment-directed education and training requirements.

REGISTRATION, EMPLOYMENT AND EMPLOYMENT-DIRECTED EDUCATION/TRAINING (TCVAP and CalWORKs)

Some recipients of the new state program will not have authorization to work in the United States.

1. Q. Please clarify whether employment and/or employment preparation services are mandatory or voluntary for each visa type (T Visa and U Visa Interim Relief), including sanction requirements.

A. SB 1569 specifies that this population be subject to the same work requirements and exemptions as federally eligible refugee program recipients, provided that compliance with these requirements is authorized by law, regardless of visa type. This applies to TCVAP and state-only CalWORKs. It does not apply to Food Stamps, as no comparable work registration/activity requirements have been established for the Food Stamp Program. As mentioned in ACL No. 06-60 (Page Nine), the level of participation may be curtailed due to employment barriers (i.e., no Social Security Number [SSN]), and certain employment services will not be appropriate, (e.g., referrals to employment interviews, job search, etc.). If a recipient is legally unable to participate in an employment preparation or service activity, it cannot be required.

2. Q. What registration, employment, and employment-directed education and training activities are appropriate for a recipient with no SSN and no authorization to work?
 - A. A recipient in TCVAP or state-only CalWORKs with no SSN or no authorization to work should not be referred to employment interviews, be required to search for a job, or be required to engage in any other activity that would be essentially futile due to his/her inability to secure legal employment. Rather, activities should be identified that help prepare the recipient for future employment, such as English language training, job skills development and preparation, job-specific training, etc. Further, for programs that utilize Employment Development Department (EDD) referrals, if a recipient is unable to work or participate in a CWD approved employment-directed program due to lack of work authorization, a referral to EDD would not be appropriate until/unless those circumstances change.

3. Q. An employment/educational services agency is resisting serving SB 1569 recipients, stating these individuals should not be referred to them because their contract funding source is entirely federal. If these individuals are eligible for services "equivalent" to the RCA participants, shouldn't they be referred to the same employment/educational services?
 - A. Where a service provider's contract is funded with federal monies, the provider is correct in saying they "cannot serve" the SB 1569 population under that existing contract. This is because the SB 1569 population is not federally eligible. However, under SB 1569, noncitizen victims of trafficking, domestic violence, and other serious crimes are eligible for services to the same extent as refugees, and counties are to ensure such services are available to eligible participants, whether the same contract is amended to include this population, or a new contract is procured.

4. Q. Are there any specific exemptions from registration, employment, and employment-directed education/training requirements for SB 1569 recipients?
 - A. SB 1569 specifies that an exemption from work requirements shall be available to these recipients if physical or psychological trauma related to or arising from the victimization impedes their ability to comply.

5. Q. Do current regulatory exemptions from employment registration and activity requirements cover a noncitizen victim of human trafficking or other serious crimes?
 - A. The same exemptions available to refugees (MPP Section 69-207.3) and CalWORKs recipients (MPP Section 42-712.41 through .49) are available to this

population (SB 1569 recipients). These current regulatory exemptions include conditions that could be a result of trafficking or serious crime.

SERVICES FUNDING

1. Q. Applicants who have been granted U Visa/U Visa Interim Relief are granted temporary immigration status and may be authorized to work, but there is no federal benefits program for these individuals. As such, this population will not be eligible for employment services which are federally-funded (e.g., Refugee Social Services and Targeted Assistance). What will the funding source be for this group?
 - A. The purpose of SB 1569 is to provide benefits and services to noncitizen trafficking and crime victims to the same extent as refugees. This includes both cash assistance and services which will be state-funded under the provisions of the law. Fiscal instructions for these provisions will be issued at a later date.
2. Q. We do not have aid codes for this population. How should they be coded?
 - A. Until aid codes are available, these cases should be flagged so that they are identifiable when aid codes become available and/or fiscal policy is established for each program.

NOTICES OF ACTION (NOAs)

1. Q. ACL No. 06-60 states that eligibility for benefits and services under SB 1569 is to be terminated if the recipient's application for a visa has been finally administratively denied. When should the case be terminated, and do we need to send a timely NOA?
 - A. Upon notification that the visa request has been denied, the CWD must send a NOA terminating the case, effective as soon as possible with 10 days notice.
2. Q. Will NOAs be developed for these state-only programs?
 - A. NOAs for TCVAP are currently under consideration. Until NOAs are developed, appropriate generic NOAs should be used.

BEGINNING DATE OF AID

1. Q. How are beginning dates of aid determined for eligible SB 1569 applicants for TCVAP, California Assistance Program for Immigrants (CAPI), state-only CalWORKs, and state-only Food Stamps?

- A. When an applicant is approved for state benefits and services under SB 1569, respective MPP Sections on Beginning Dates of Aid for each program apply. Upon approval for a federal program, an SB 1569 trafficking case receiving aid under the state program will need to be converted, and a new beginning date of aid for the federal program may need to be determined. See examples for determining Beginning Date of Aid in the respective "Program-Specifics" Section below.

PROGRAM-SPECIFICS

Program-specific clarification is needed regarding the duration of benefits, the one-year eligibility period, case conversion from state-only to federal, participation rates, etc.

TCVAP (State Program Equivalent to RCA)

1. Q. ACL No. 06-60 (Page Nine) states "Noncitizens determined eligible under the provisions of SB 1569, if otherwise eligible, will receive state-funded benefits and services equivalent to RCA pursuant to MPP Division 69." There is some confusion about the use of the phrase "...equivalent to RCA..." Are these benefits intended to be identical to RCA, and is the period 8 months?
 - A. Yes, the benefits are the same as the current maximum of 8 months in RCA, but the funding sources are different. RCA is federally funded and the new state program, TCVAP, is state-funded. Please note that the 8-month maximum currently available in RCA (and therefore in TCVAP) is set by federal regulation (see MPP Section 69-202.411) and may change.
2. Q. If a client has applied for the appropriate visa and has received 8 months of TCVAP, do we discontinue after 8 months or wait the full year?
 - A. An eligible TCVAP recipient may receive cash aid up to a maximum of 8 months (equivalent to the current maximum available to a federally eligible refugee), at which time s/he will be discontinued from cash TCVAP aid. The one-year period pertains to the time frame allowed for the recipient to apply for a T Visa and is not connected to the 8-month eligibility period for cash aid. Employment services, such as English language training and job preparation, may continue for the duration of the year.
3. Q. How is beginning date of aid determined?
 - A. Regular beginning date of aid rules apply to TCVAP applicants pursuant to MPP Section 69-205.2.

4. Q. ACL No. 06-60 states that when/if the recipient is certified by the Office of Refugee Resettlement (ORR), claiming for the case shall be switched from state-only to federal. Do we need to send a NOA? How is beginning date of aid determined for conversion to the federal program?
- A. Upon notification that a TCVAP trafficking recipient has received ORR certification, the CWD must make a determination that the recipient is eligible for RCA and maintain a copy of the ORR certification letter in the case file. If the original application is still current, a new application is not required, and the beginning date of aid for RCA is the date of ORR certification. A NOA must be sent informing the recipient that s/he is being taken out of the state program and placed in the federal program, with a new end date if applicable (e.g., for RCA, 8 months from ORR certification). See following example.

May 10 th TCVAP approved. (Beginning Date of Aid MPP Sections apply.)	July 10 Recipient receives notification s/he has been certified by ORR effective July 1.	July 13 Recipient notifies CWD of ORR certification.	July 17 CWD sends timely NOA informing recipient that s/he will receive RCA, with a new end month, 8 months from the date of ORR certification, if there are no changes affecting eligibility.	If no appeal, the CWD converts the case from state-only to federal for claiming purposes effective July 1.
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NOTE: This does not apply to TCVAP Crime Victims, as there is no federal program that provides benefits. If a crime victim obtains a U Visa or U Visa Interim Relief, s/he remains in the state-only program for the appropriate duration (currently 8 months).

CalWORKs/TANF

1. Q. Will these individuals, who may be undocumented and may not have authorization to work, be automatically exempt from the CalWORKs welfare-to-work requirements?
- A. Noncitizens determined eligible for state-only CalWORKs under the provisions of SB 1569 are not automatically exempt from the CalWORKs welfare-to-work requirements. These individuals are subject to the CalWORKs program requirements and exemptions including welfare-to-work participation. However, some welfare-to-work activities, such as employment and job search, may not be appropriate for these individuals since they may not have authorization.
2. Q. How will counties' work participation rates be affected by the welfare-to-work requirements for this population?

- A. Services provided to SB 1569-eligible individuals are provided solely with State General Fund monies that are not TANF Maintenance of Effort funds; therefore, these individuals are not subject to TANF work participation requirements. SB 1569 individuals will have no effect on the counties' federal work participation rate.
3. Q. How is beginning date of aid determined for this population?
- A. Regular beginning date of aid rules apply pursuant to MPP Section 44-317.1. Aid shall begin on the date on which the county receives a signed and dated application, or the date on which the applicant meets all eligibility conditions, whichever is later.

WELFARE-TO-WORK CHILD CARE

1. Q. Are SB 1569 recipients in the state-only CalWORKs program eligible to receive child care services?
- A. Yes. Pursuant to MPP Section 47-220, if child care eligibility requirements are met, current state-only CalWORKs recipients are eligible to receive CalWORKs Child Care because the participant receives CalWORKs cash assistance.

FOOD STAMPS

1. Q. If a recipient receiving state-funded Food Stamps pursuant to SB 1569 becomes federally eligible, do we need to send a NOA?
- A. If there are case changes in addition to the funding source (e.g., the Food Stamp certification period changes), a timely NOA is required. If the only change to the case is the claiming, a NOA is not necessary.
2. Q. The Able-Bodied Adult Without Dependents (ABAWD) work requirement is usually met through 20 hours per week of work or workfare. But if this population does not have work permits and SSNs, how can they work? Maybe counties should at least be encouraged to use the 15% ABAWD exemption on them.
- A. This population is not subject to any food stamp work rules at this time, including the ABAWD work requirement, work registration requirements, and/or penalties for voluntary quit or reduction of hours worked. Consequently, no sanctions are applicable, either.
3. Q. How is beginning date of aid determined for this population?

- A. Food Stamp Program beginning date of aid rules remain unchanged. Per MPP Section 63-300.1, counties must act promptly on all applications and provide food stamp benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible.

CAPI

- 1. Q. When should an SB 1569 recipient who becomes eligible for Supplemental Security Income (SSI) be discontinued from the state program?
 - A. The beginning date of SSI would be determined by the Social Security Administration. As soon as possible following the SSI award date, a timely NOA should be sent discontinuing the SB 1569 CAPI case effective with the date of SSI eligibility.
- 2. Q. How is beginning date of aid determined for this population?
 - A. Regular beginning date of aid rules apply pursuant to MPP Section 49-015.41.

QUALITY CONTROL

- 1. Q. Will there be quality control and/or monitoring of these cases?
 - A. At this time there are no plans for formal quality control of the state-only program, although these cases may be included in case review/monitoring activities as appropriate.

FURTHER INFORMATION/CONTACTS

Please contact the following staff persons in your program area if you need more information or have any further questions:

BUREAU/UNIT

<u>CONTACT NAME</u>	<u>PHONE NO.</u>	<u>E-MAIL ADDRESS</u>
<u>Refugee Programs</u>		
Lynne Reich	(916) 654-7327	<u>Lynne.Reich@dss.ca.gov</u>
Jackie Hom	(916) 653-8980	<u>Jacqueline.Hom@dss.ca.gov</u>

ACIN I-41-07
Page Ten

CalWORKs

Please call your CalWORKs county consultant.

Welfare-to-Work Child Care

Child Care Programs
Bureau (916) 657-2144 childcarequestions@dss.ca.gov

Food Stamps

Jaime Aguirre (916) 657-3418 Jaime.Aguirre@dss.ca.gov

CAPI and IHSS

Marshall Browne (916) 229-4043 mbrowne@dss.ca.gov

Sincerely,

Original signed by

VENUS GARTH, Chief
Child Care and Refugee Programs Branch
Welfare to Work Division

Attachments

c: CWDA



RESOURCES: IDENTIFYING AND INTERACTING WITH VICTIMS OF HUMAN TRAFFICKING



As a social service provider, you may have encountered victims of trafficking without realizing their circumstances, and therefore, have lost a chance to help them escape a horrific situation. The following provides a brief background on the trafficking problem, as well as tips for identifying and assisting trafficking victims:

- Human trafficking is a form of modern-day slavery, widespread throughout the United States. While trafficking is largely a hidden social problem, many trafficking victims are in plain sight if you know what to look for.
- Trafficking is not just forced prostitution. Victims of human trafficking may also be in forced labor situations as domestic servants (nannies or maids); sweatshop workers; janitors; restaurant workers; migrant farm workers; fishery workers; hotel or tourist industry workers; and as beggars.
- As a social service provider, you can help victims of human trafficking get the safety, protection and resources they need. You may be the only outsider with the opportunity to speak with a victim. There are housing, health, immigration, food, income, employment and legal services available to victims, but first they must be found.

Victim Identification

- A victim of trafficking may look like many of the people you help every day. You can help victims of trafficking get the assistance they need by looking beneath the surface for the following clues:
 - Evidence of being controlled
 - Evidence of an inability to move or leave job
 - Bruises or other signs of battering
 - Fear or depression
 - Non-English speaking
 - Recently brought to this country from Eastern Europe, Asia, Latin America, Canada, Africa or India
 - Lack of passport, immigration or identification documentation
- Traffickers use various techniques to keep victims enslaved. Some traffickers keep their victims under lock and key. However, the more frequent practice is to use less obvious techniques including:
 - Debt bondage – financial obligations, honor-bound to satisfy debt
 - Isolation from the public – limiting contact with outsiders and making sure that any contact is monitored or superficial in nature
 - Isolation from family members and members of their ethnic and religious community
 - Confiscation of passports, visas and/or identification documents
 - Use or threat of violence toward victims and/or families of victims
 - The threat of shaming victims by exposing circumstances to family
 - Telling victims they will be imprisoned or deported for immigration violations if they contact authorities
 - Control of the victims' money, e.g., holding their money for "safe-keeping"

The result of such techniques is to instill fear in victims. The victims' isolation is further exacerbated because many do not speak English and are from countries where law enforcement is corrupt and feared.



Victim Interaction

- Asking the right questions may help you determine if someone is a victim of human trafficking. It is important to talk to a potential victim in a safe and confidential environment. If the victim is accompanied by someone who seems controlling, you should try to separate the victim from that person. The accompanying person could very well be the trafficker.
- You should also enlist the help of a staff member who speaks the potential victim's language and understands his or her culture. Although not ideal, you can enlist interpreter services such as those provided by the ATT Language Line.
- If the victim is a child, it is important to enlist the help of a social services specialist who is skilled in interviewing minor trafficking or abuse victims. Screen interpreters to ensure they do not know the victim or the traffickers and do not otherwise have a conflict of interest.

Victim Assistance

- If you think you have come in contact with a victim of human trafficking, call the **Trafficking Information and Referral Hotline at 1.888.3737.888**. This hotline will help you determine if you have encountered victims of human trafficking, will identify local resources available in your community to help victims, and will help you coordinate with local social service organizations to help protect and serve victims so they can begin the process of restoring their lives. For more information on human trafficking visit **www.acf.hhs.gov/trafficking**.
- If you think you have encountered a victim of human trafficking, it is important to collaborate among key service providers, including the Department of Health and Human Services, law enforcement and others at the local, state and Federal levels, to help the victim get the protection and services they need. Calling the Trafficking Information and Referral Hotline will provide important guidance on enlisting these support services.
- Under the Trafficking Victims Protection Act of 2000, victims of human trafficking in the U.S. who are non-citizens may be eligible for a special visa and comprehensive benefits and services. Victims who are U.S. citizens are already eligible to receive many of these benefits.



RESOURCES: SCREENING TOOL FOR VICTIMS OF HUMAN TRAFFICKING



The following are sample questions social service providers can ask in screening an individual to determine if he/she is a potential victim of human trafficking. As with domestic violence victims, if you think a person is a victim of trafficking, you do not want to begin by asking directly if the person has been beaten or held against his/her will. Instead, you want to start at the edges of his/her experience. And if possible, you should enlist the help of a staff member who speaks the person's language and understands the person's culture, keeping in mind that any questioning should be done confidentially.

You should screen interpreters to ensure they do not know the victim or the traffickers and do not otherwise have a conflict of interest.

Before you ask the person any sensitive questions, try to get the person alone if they came to you accompanied by someone who could be a trafficker posing as a spouse, other family member or employer. However, when requesting time alone, you should do so in a manner that does not raise suspicions.

Suggested Screening Questions:

- Can you leave your job or situation if you want?
- Can you come and go as you please?
- Have you been threatened if you try to leave?
- Have you been physically harmed in any way?
- What are your working or living conditions like?
- Where do you sleep and eat?
- Do you sleep in a bed, on a cot or on the floor?
- Have you ever been deprived of food, water, sleep or medical care?
- Do you have to ask permission to eat, sleep or go to the bathroom?
- Are there locks on your doors and windows so you cannot get out?
- Has anyone threatened your family?
- Has your identification or documentation been taken from you?
- Is anyone forcing you to do anything that you do not want to do?

If you think you have come in contact with a victim of human trafficking, call the **Trafficking Information and Referral Hotline at 1.888.3737.888**. This hotline will help you determine if you have encountered victims of human trafficking, will identify local resources available in your community to help victims, and will help you coordinate with local social service organizations to help protect and serve victims so they can begin the process of restoring their lives. For more information on human trafficking visit www.acf.hhs.gov/trafficking.