

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 18, 2002

ALL COUNTY LETTER NO. 02-28

TO: ALL COUNTY WELFARE DIRECTORS
ALL FOOD STAMP COORDINATORS
ALL CalWORKS PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: TRAFFICKING VICTIMS PROTECTION ACT OF 2000 ELIGIBILITY TO
FOOD STAMP AND CalWORKS, EFFECTIVE JANUARY 24, 2000

REFERENCE: PUBLIC LAW 106-386 AND ADMINISTRATIVE NOTICE 01-60, 02-20,
MPP 63-405, MPP 43-119 AND ACL 01-58

The purpose of this letter is to provide instructions regarding the eligibility of trafficking victims in the Food Stamp (FSP) and CalWORKS Programs. Public Law 106-386, effective January 24, 2000, extends FSP and CalWORKS benefits to certain trafficking victims. Trafficking victims are undocumented non-citizens subjected to acts induced by force, fraud, coercion or involuntary labor. The Department of Health and Human Services, Office of Refugee Resettlement (ORR) has the authority to certify the victims. For purposes of establishing eligibility, they are to be treated as refugees under Section 207 of the Immigration and Naturalization Act.

In the application process, the CWD shall verify the immigration status of these noncitizens for FSP and CalWORKS purposes as follows:

1. Accept the original ORR certification letter. No Immigration and Naturalization Service (INS) documentation is required at this time.
2. Call the trafficking verification line at (202) 401-5510 if an individual presents an expired certification letter, to confirm the validity of a certification letter and to notify ORR of the benefits for which the individual has applied.
3. The date of entry will be the ORR certification date on the certification letter. The date of entry is the first date of eligibility. Benefit certification shall not begin prior to the certified date of entry.
4. Issue food stamp and cash aid benefits to the same extent as a refugee if the applicant meets all other program eligibility criteria.

5. Record the expiration date of the certification letter. The initial ORR certification letters have an expiration date eight months from the initial certification date.

As of November 6, 2001, certification letters for adults and eligibility letters for children no longer contain expiration dates. An individual who is certified on or after November 6, 2001 will receive a certification letter without an expiration date. The re-certification letters will not have an expiration date and will contain a lowercase "r" beside the HHS tracking number.

If at the end of the food stamp certification period, ORR has not issued a follow-up letter extending certification as a trafficking victim, the individual is no longer eligible for food stamp benefits and CalWORKS as a refugee under the trafficking authority.

Section 107(b) (1) (A), (C) AND (E) in part of the Act, frequently asked questions provided by FNS and sample ORR certification letters are attached. If you have any questions, call Sandra Pierce of the FSP at (916) 653-5208, David Wiley of CalWORKS at (916) 654-3062 or Linda Keene at (916) 654-2602 or Betts Smith at (916) 654-0495 in the Refugee Programs Branch.

Sincerely,

Original document signed by

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachments

SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(b) Victims in the United States-

(1) ASSISTANCE-

(A) ELIGIBILITY FOR BENEFITS AND SERVICES- Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(C) DEFINITION OF VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS- For the purposes of this paragraph, the term 'victim of a severe form of trafficking in persons' means only a person--

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(E) CERTIFICATION-

(i) IN GENERAL- Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)--

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

(II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) PERIOD OF EFFECTIVENESS- A certification referred to in subparagraph (C) with respect to a person described in clause (i)(II)(bb) shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

**•Frequently Asked Questions
Benefits for Victims of Trafficking under
The Trafficking Victims Protection Act of 2000**

(1) Are adult victims of trafficking eligible for benefits to the same extent as refugees?

Yes, provided they have been certified and meet other program eligibility requirements (e.g., income levels). Under The Trafficking Victims Protection Act (the Act), adult victims of trafficking who have been certified by the U.S. Department of Health and Human Services (HHS) are eligible for benefits to the same extent as refugees.

(2) Are children who have been subjected to trafficking eligible for benefits to the same extent as refugees?

Yes. Children who are under 18 years old and who have been subjected to trafficking are eligible for benefits to the same extent as refugees. Children do not need to be certified.

(3) What is trafficking?

Under section 103(8) of the Act, the term "severe forms of trafficking in persons" means:

- (A) 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
- (B) 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.

(4) What is certification?

HHS, after consultation with the Attorney General, may certify an adult victim of trafficking who (1) is willing to assist in every reasonable way in the investigation and prosecution of trafficking cases AND (2) has made a bona fide application for a T visa OR is a person whose continued presence the Attorney General is ensuring to effectuate a prosecution of traffickers.

(5) Who conducts certification activities?

The Office of Refugee Resettlement (ORR) at HHS has been delegated the authority to conduct certification activities. Benefit-issuing agencies are not authorized to issue certifications. Similarly, other federal government agencies are not authorized to issue certifications.

(6) Does ORR conduct certification activities without consulting the Attorney General?

No. After consultation with the Attorney General, ORR may certify victims of trafficking who meet the certification requirements.

(7) Do children who have been subjected to trafficking need certification?

No. Children who have been subjected to trafficking do NOT need to be certified in order to receive benefits. Minors, under 18 years old, who have been subjected to trafficking are eligible for benefits to the same extent as refugees, without having to be certified. At this time, ORR is issuing letters, similar to adult certification letters (see #8), stating that the child is a victim of a severe form of trafficking and is therefore eligible for benefits to the same extent as a refugee. A sample letter is attached.

(8) What proof do adult victims have that they have been certified?

At this time, adult victims of trafficking who have been certified will be issued a certification letter by ORR. A sample certification letter is attached. However, please note that the signature and make-up of this letter may change in the coming months.

(9) What documents must adult victims of trafficking submit to a benefit-issuing agency when they apply for benefits?

Adult victims of trafficking must submit their certification letters. To apply for benefits, adult victims do NOT need to provide any immigration documents.

(10) Will victims of trafficking have standard identity documents?

When confirming identity, agencies may find that many victims of trafficking do not yet possess standard identity documents, such as driver's licenses. If agencies have difficulty confirming identity in these cases, they should not automatically deny the applications but should call the trafficking verification line at (202) 401-5510 for assistance.

(11) Will victims of trafficking have social security numbers for work purposes?

Some victims of trafficking may not yet have or may not be able to obtain social security numbers for work purposes. Agencies should assist these individuals in obtaining non-work social security numbers by following the instructions in ORR State Letter #00-23.

(12) Do victims of trafficking need social security numbers to receive ORR-funded benefits and services?

No. States cannot require that applicants for ORR-funded assistance and services provide social security numbers. While Medicaid, Temporary Assistance for Needy Families and Food Stamp eligibility rules require applicants for benefits who do not have social security numbers to apply for them, the State may not delay, deny or discontinue assistance pending the issuance of their social security numbers. States and local agencies also must assist applicants to apply for social security numbers. See ORR State Letter #00-23.

(13) How do victims of trafficking apply for certification?

At this time, ORR is in the process of developing procedures under which an individual may apply for certification as a victim of trafficking. Until formal procedures are developed, requests for certification are being handled on a case-by-case basis. If benefit-granting agencies encounter an individual that they believe may meet the definition in the Act, they should call Michael Jewell at (202) 401-4561, Neil Kromash at (202) 401-5702 or their State Analyst. If agencies encounter a child that they believe has been subjected to trafficking, they should call Loren Bussert at (202) 401-4732. Agencies should note that certification is not automatic. ORR must consult with

various offices at the Department of Justice (DOJ) prior to a certification. Therefore, in order to expedite the process, agencies may want to contact Lorna Grenadier, DOJ, Criminal Section of the Civil Rights Division at (202) 616-3807.

(14) Does the Act give victims of trafficking refugee status under immigration laws?

No. The Act does not give victims of trafficking refugee status under immigration laws. The Act makes victims of trafficking eligible for benefits to the same extent as refugees. In other words, victims of trafficking are treated like refugees for benefits purposes.

(15) Do victims of trafficking need to have a certain immigration status in order to receive benefits?

No. Victims of trafficking do NOT need to hold a certain immigration status in order to receive benefits. (Victims of trafficking need to be certified by HHS in order to receive benefits.) Although they do not need them for benefits purposes, victims of trafficking may hold a variety of immigration documents including an I-94 Arrival/Departure Card with a stamp showing parole under section 212(d)(5) of the Immigration and Nationality Act, an employment authorization document, or proof of deferred action or an order of supervision.

(16) Should agencies use the INS Systematic Alien Verification for Entitlements (SAVE) system to confirm a trafficking victim's eligibility for benefits?

Not at this time. The SAVE system does not contain information about victims of trafficking. ORR is working with the INS on this issue and further instructions will be released as soon as possible. Until further notice, benefit-issuing agencies should not contact the SAVE system to confirm eligibility for benefits for victims of trafficking. Agencies should call the trafficking verification line at (202) 401-5510 to confirm the validity of a certification letter.

(17) Are the certification letters valid indefinitely?

No. At this time, the certification letters contain expiration dates, which are 8 months from the initial certification date. Benefit-issuing agencies should record the expiration dates so that, if necessary, they can conduct re-determinations of eligibility at that time. ORR intends to issue follow-up certification letters if individuals continue to meet the statutory certification requirements.

(18) What is the "entry date" for refugee benefits purposes (first day of an individual's eligibility period for refugee benefits) for victims of trafficking?

A trafficking victim's "entry date" for refugee benefits purposes is the date of certification. The date of certification appears in the body of the certification letter or letter for children.

(19) What process should benefit-granting agencies follow when a victim of trafficking applies for benefits?

When a victim of trafficking applies for benefits, benefit-granting agencies should follow their normal procedures for refugees except agencies should:

- (1) **Accept the certification letter or letter for children in place of INS documentation.** Victims of severe forms of trafficking do not need to provide any documentation of their immigration status.

- (2) **Call the trafficking verification line at (202) 401-5510 to confirm the validity of the certification letter or letter for children and to notify ORR of the benefits for which the individual has applied. (Note: At this time, SAVE does not contain information about victims of severe forms of trafficking. Until further notice, do not contact SAVE concerning victims of severe forms of trafficking.)**
- (3) **Note the "entry date" for refugee benefits purposes. The individual's "entry date" is the certification date, which is in the body of the certification letter or letter for children.**
- (4) **Issue benefits to the same extent as a refugee, provided the victim of a severe form of trafficking meets other program eligibility criteria (e.g., income levels).**
- (5) **Record the expiration date of the certification letter or letter for children so that benefit-granting agencies will be prepared to conduct re-determinations of eligibility at that time.**

(20) Can an adult victim of trafficking be de-certified?

At this time, there are no formal procedures for de-certification of adult victims of trafficking. However, if an adult victim of trafficking no longer meets the statutory certification requirements at the 8-month re-determination, ORR will not issue a follow-up certification letter and the individual will no longer be eligible for benefits to the same extent as a refugee. In addition, procedures are being considered to address cases where, prior to the end of the 8-month certification period, the Attorney General advises that a victim of trafficking no longer meets the certification requirements.

SAMPLE - ADULT

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 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 _____.

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. This certification 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

SAMPLE - CHILD

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 _____.

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