

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



April 4, 2008

ALL-COUNTY LETTER (ACL) NO. 08-15

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

SUBJECT: DEPARTMENT OF HOMELAND SECURITY INTERIM FINAL RULE ON NEW
CLASSIFICATION FOR VICTIMS OF CRIMINAL ACTIVITY; ELIGIBILITY FOR
"U" NONIMMIGRANT STATUS

REFERENCE: 8 CODE OF FEDERAL REGULATIONS PARTS 103, 212, 214, 274A, AND 299;
ALL COUNTY INFORMATION NOTICE(ACIN) I-41-07; ACL NO. 06-60;
SENATE BILL (SB) 1569, CHAPTER 672, STATUTES OF 2006; AND
WELFARE AND INSTITUTIONS (W&I) CODE SECTIONS 14005.2, 13282,
AND 18945

SB 1569 (Chapter 672, Statutes of 2006) created a new state program (effective January 1, 2007), that provides eligible, noncitizen victims of human trafficking and victims of domestic violence or other serious crimes benefits and social services equivalent to those available to refugees. This program was implemented via ACL No. 06-60, issued December 21, 2006. This letter provides an update on the status of the Interim Final Rule recently filed by the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS) as it pertains to eligibility for benefits and services for victims of serious crime.

REASON FOR THIS TRANSMITTAL

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

The Trafficking Victims Protection Act (TVPA) of 2000 created U Nonimmigrant Status for certain victims of criminal activity (including, but not limited to, domestic violence) who: have suffered substantial mental or physical abuse; have information regarding the criminal activity; and have been helpful, are being helpful, or who are likely to be helpful in assisting law enforcement in the investigation and prosecution of the crime(s). At the federal level, "U" Nonimmigrant Status provides a stay of deportation and the ability to apply for work authorization.

As regulations governing U Visas were not forthcoming following TVPA implementation, an administrative remedy called U Visa Interim Relief was created to enable victims a stay of deportation and work authorization (see ACL No. 06-60 and ACIN No. I-41-07). An Interim Final Rule regarding New Classification for Victims of Criminal Activity and Eligibility for U Nonimmigrant Status has now been issued, effective October 17, 2007.

New U Visa Cases

In order to be eligible as a nonimmigrant victim of serious crime, SB 1569 requires that an applicant have filed a request for a U Visa. At the time of SB 1569 implementation, since U Visas were not yet available, an applicant could provide evidence that a request for U Visa Interim Relief had been submitted. Now that an Interim Final Rule has been issued, USCIS no longer accepts U Visa Interim Relief applications filed after October 17, 2007 (the effective date of the Interim Final Rule).

New applicants for SB 1569 benefits must now present evidence that they have filed for a U Visa (or have obtained one) if they do not have proof that they filed for U Visa Interim Relief before October 17, 2007. This evidence can include:

A Notice of Action (Form I-797) approving U Visa Interim Relief based on a request filed prior to October 17, 2007 (sample attached); or

A confirmation receipt or letter from USCIS verifying that a request for U Visa Interim Relief was filed prior to October 17, 2007 (sample attached); or

A Form I-797 which serves as a fee receipt for an employment authorization request based on a request for U Visa Interim Relief filed prior to October 17, 2007; or

A confirmation receipt or letter from USCIS verifying that a Petition for U Nonimmigrant Status (Form I-918) has been filed (Form I-918 available for download at: <http://www.uscis.gov/files/form/I-918.pdf>); or

A Form I-797 approving a U Visa; or

A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or

A completed copy of Form I-918. If the only available evidence is the completed copy of the I-918, the applicant must provide, within a reasonable time, verification from USCIS that it was submitted; or

An employment Authorization Document (EAD) issued under Category "A19" or "A20" for an approved U Visa petitioner.

Existing U Visa Interim Relief Cases

Federal regulations have established that after the effective date of the issuance of the Interim Final Rule (October 17, 2007), USCIS will not consider initial requests for interim relief. USCIS has indicated that petitioners who have previously been granted interim relief and have filed a Form I-918 for a U Visa will have their interim relief extended until USCIS completes its adjudication of the application. Therefore, cases determined eligible based on a request for U Visa Interim Relief prior to October 17, 2007 may remain eligible if a U Visa application has been filed (or a U Visa has been issued) or until a denial of interim relief has been issued.

When discussing elements of the new rule with recipients, County Welfare Departments (CWDs) are cautioned to not provide advice that may be legal in nature. CWDs may suggest to recipients that they consult an immigration attorney, a legal aid representative, or other appropriate party for assistance in applying for a U Visa or for additional information regarding the Interim Final Rule. USCIS anticipates issuing the Final Rule on nonimmigrant U Visas sometime in the fall of 2008.

SB 1569 Program Clarification

As a point of clarification, benefits granted pursuant to SB 1569 are subject to the time limits of the respective program for which applicants are eligible. For example, an eligible adult with no children will not be eligible for CalWORKs, but could be granted TCVAP up to the maximum 8-month period, consistent with the Refugee Cash Assistance program rules. An adult applicant with a child eligible for CalWORKs would receive state-funded benefits for up to 60 months to the extent s/he is eligible, consistent with CalWORKs program rules.

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

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CONTACT NAME

PHONE NO.

E-MAIL ADDRESS

Refugee Programs

Lynne Reich

(916) 651-9770

Lynne.Reich@dss.ca.gov

Jeanette Robbins

(916) 653-8980

Jeanette.Robbins@dss.ca.gov

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

David Badal

(916) 653-5528

David.Badal@dss.ca.gov

CAPi and IHSS

Marshall Browne

(916) 229-4043

mbrowne@dss.ca.gov

Sincerely,

Original Document Signed By:

CHARR LEE METSKER
Deputy Director
Welfare to Work Division

Enclosures
c: CWDA



Early U Visa application/Interim Relief Request		Notice of Deferred Action	
Extension		Applicant	A Number
Notice Date January 09, 2008		Page 1	Derivative
			A Number

[REDACTED]
 C/O Sheila K Neville Esq
 Legal Aid Foundation of Los Angeles
 5228 East Whittier Boulevard
 Los Angeles, CA 90022-4013

A review of your request for interim relief has determined that you may be eligible for U nonimmigrant status under section 101(a)(15)(U) of the Immigration and Nationality Act. Therefore, CIS has decided to place your case in deferred action. This is an administrative choice to give some cases lower priority for removal while implementing regulations are being promulgated. CIS does not anticipate instituting action for removal at this time. Deferred action will remain in effect for a period of one year unless it is terminated earlier for reasonable cause and upon appropriate notice. You may request an extension of deferred action. Such a request may be submitted within 120 days of the expiration date of the deferred action validity period.

A COPY OF THIS NOTICE MUST ACCOMPANY ANY REQUEST FOR AN EXTENSION OF THIS DETERMINATION.

PLEASE NOTE: DEFERRED ACTION DOES NOT CONFER ANY IMMIGRATION STATUS, AND THE DECISION TO ASSESS DEFERRED ACTION DOES NOT MEAN THAT A SUBSEQUENT APPLICATION FOR U NONIMMIGRANT STATUS WILL BE APPROVED.

DEFERRED ACTION VALIDITY PERIOD: January 04, 2008 to January 03, 2009

Employment Authorization

Pursuant to 8 CFR Sec. 274a.12(c)(14), an alien who is under deferred action is eligible to submit an application for employment authorization if the alien establishes an economic necessity for employment. This application, on Form I-765, should be filed with this office. The alien must provide information regarding his or her assets, income and expenses in accordance with the instructions on the Form I-765.

Extension of Deferred Action

In order to extend Deferred Action, you must do one (1) of the following:

1. File Form I-765 for Employment Authorization, pursuant to 8 CFR Sec 274a.12(c)(14) **WITH THIS OFFICE**. If you still qualify, Deferred Action will be extended at the time your application for employment is approved.
2. Request in writing for an extension of Deferred Action.

If you are represented by an attorney, all further correspondence should be accompanied by Form G-28.

THIS FORM DOES NOT CONSTITUTE EMPLOYMENT AUTHORIZATION NOR MAY IT BE USED IN PLACE OF AN EMPLOYMENT AUTHORIZATION DOCUMENT.

You will be notified separately about any other applications or petitions you filed. Save this notice. Please enclose a copy of it if you write to us about this case, or if you file another application based on this decision. Our address is:

U.S. CITIZENSHIP AND IMMIGRATION SERVICES
 VERMONT SERVICE CENTER
 75 LOWER WELDEN STREET
 ST. ALBANS, VT 05479-0001



U.S. Citizenship
and Immigration
Services

November 09, 2007

[REDACTED]
C/O Sheila K Neville Esq
Legal Aid Foundation of Los Angeles
5228 East Whittier Boulevard
Los Angeles, CA 90022-4013

RE: U NONIMMIGRANT INTERIM RELIEF FILING

Dear Sir/Madam:

This letter shall serve as this office's notice that you have filed an application for U Nonimmigrant Interim Relief. Your application was received at the Vermont Service Center on September 26, 2007 and remains pending at this time.

The Vermont Service Center will review your application in the order it was received at this office. Please retain a copy of this notice as evidence that have filed for Interim Relief.

Sincerely,

A handwritten signature in cursive script that reads "Paul E. Novak, Jr.".

Paul E. Novak, Jr.
Center Director