

Manual of Policies and Procedures

SPECIALIZED PROGRAMS



**STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES**

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**SPECIAL PROGRAMS REGULATIONS
TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM**

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Regulations

TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM

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CHAPTER 70-100 TRAFFICKING AND CRIME VICTIMS ASSISTANCE PROGRAM (TCVAP)

70-101 GENERAL STATEMENT

70-101

- .1 These regulations implement Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006), which established the state TCVAP in order to provide public social services and health care services to noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 and to noncitizen victims of domestic violence or other serious crimes. Applicants qualified under these provisions will be eligible for benefits and services to the same extent as individuals who are admitted to the United States as refugees under Sections 69-201 et seq.
- .2 County Welfare Departments (CWDs) shall determine the eligibility of applicants for TCVAP. The CWD shall administer these programs according to state policy under the supervision of CDSS for public social services, and the State Department of Health Care Services for medical services.
 - .21 Sections 70-102 and 70-103 shall be applied when determining the status and eligibility of trafficking victims.
 - .22 Section 70-104 shall be applied when determining the eligibility of domestic violence and other serious crime victims.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

70-102 **DETERMINATION OF TRAFFICKING VICTIM STATUS** **70-102**

.1 The CWD shall determine the trafficking status of non-federally eligible individuals applying for state benefits and services as victims of a severe form of human trafficking.

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.11 Severe forms of human trafficking are defined in the U.S. Code, Title 22, Section 7102(8) as: 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 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.

HANDBOOK ENDS HERE

.2 For purposes of determining eligibility as a victim of a severe form of human trafficking for TCVAP, a sworn statement by the victim, or a representative if the victim is not able to competently make a sworn statement, is sufficient to verify trafficking status, if at least one item of additional evidence is provided, including, but not limited to:

.21 Police, government agency, or court records or files;

.22 News articles;

.23 Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;

.24 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;

.25 Physical evidence;

.26 A copy of a completed visa application;

.27 Written notice from USCIS of receipt of the visa application.

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70-102 DETERMINATION OF TRAFFICKING VICTIM STATUS (Continued) 70-102

.3 If the victim cannot provide additional evidence, the sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

.31 The CWD may use a generic "under the penalty of perjury" form for the sworn statement that contains the applicant's declaration that s/he is a victim of a severe form of human trafficking.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

70-103 DETERMINATION OF TRAFFICKING VICTIMS' ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES**70-103**

- .1 Once it has been determined that the applicant meets the definition of a victim of a severe form of human trafficking, in order to determine the applicant's eligibility for TCVAP, the CWD must verify that the applicant:
 - .11 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or
 - .12 Is preparing to file an application for a T Visa; or
 - .13 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or
 - .14 Is a person for whom "continued presence" in the U.S. has been requested by federal law enforcement because s/he is assisting or willing to assist in the investigation or prosecution of human traffickers.
- .2 The following documentation may be useful in determining whether an applicant has filed for a T Visa:
 - .21 A confirmation receipt or letter from USCIS verifying an application has been filed; or
 - .22 A copy of the application for a T Visa (form I-914).
- .3 If an applicant has not yet filed for a T Visa, the applicant's statement that s/he intends to file or is taking steps to become federally eligible (e.g. working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.), will be acceptable.
 - .31 Documentation could include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who are assisting the victim with the T Visa application or steps to becoming eligible.
- .4 "Continued Presence" is a status that allows victims assisting law enforcement to remain in the country during the course of a criminal investigation.

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70-103 DETERMINATION OF TRAFFICKING VICTIMS' ELIGIBILITY 70-103
FOR TCVAP BENEFITS AND SERVICES (Continued)

.5 Eligibility for state-funded services shall be terminated if:

.51 The recipient's application for a T Visa has been finally administratively denied; or,

.511 An application for a visa has been "finally administratively denied" when an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first.

.52 The recipient has not applied for a T Visa within one year of the date of application for public social services; or,

.53 A request on behalf of the recipient for continued presence has not been made within one year of date of application for public social services; or

.54 The recipient has been issued a T Visa.

NOTE: Authority Cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

**70-104 DETERMINATION OF SERIOUS CRIME VICTIMS
ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES****70-104**

- .1 In determining eligibility for TCVAP the CWD must verify that the applicant has filed a formal application for a U Visa (Form I-918 and required supplements) with USCIS under Section 1101(a)(15)(U)(i) or (ii) of Title 8 of the U.S. Code. This section also applies to individuals who requested U Visa Interim Relief only if requested prior to October 17, 2007.

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- .11 Federal law defines noncitizen victims of serious crimes as aliens who:
- .111 Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy or solicitation to commit any of the above mentioned crimes; and,
 - .112 Possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and
 - .113 Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

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- .12 Acceptable documentation for verifying that an application for a U Visa has been filed or that U Visa Interim Relief was requested (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed before October 17th, 2007) includes, but is not limited to:
- .121 A confirmation receipt or letter from USCIS verifying that a request has been filed; or
 - .122 The Notice of Action (form I-797) approving a U Visa or request for U Visa Interim Relief (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was requested before October 17, 2007); or
 - .123 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or
 - .124 A copy of the Petition for U Nonimmigrant status (Form I-918); or

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70-104 DETERMINATION OF SERIOUS CRIME VICTIMS 70-104
ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES (Continued)

- .125 An Employment Authorization Document (EAD) issued under Category “A19” or “A20” for an approved U Visa petitioner.

- .2 Eligibility for state-funded services for victims of serious crimes will be terminated when the recipient's application for a U Visa has been finally administratively denied, as defined in Section 70-103.511, or when the program time limitation has been reached, whichever comes first.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code, Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.

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70-105 TCVAP BENEFITS AND SERVICES 70-105

.1 Eligibility Procedures for TCVAP Benefits and Services Equivalent to Refugee Case Assistance (RCA).

Individuals determined eligible pursuant to Sections 70-102 through 70-104 are entitled to benefits and services to the same extent as refugees as defined at Sections 69-202.1 and .2, and are subject to the same requirements (outside of legal status) as RCA recipients as described in Sections 69-204 through 69-216, with the following exceptions that include, but are not limited to:

.11 Eligibility for Other Programs (cross-reference Section 69-204)

.111 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes applying for benefits under these provisions shall not be required to apply for SSI/SSP, as it would be inappropriate to impose a requirement for which it is known there is no eligibility.

.112 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under CAPI shall be aided under CAPI.

.113 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under the state CalWORKs program shall be aided under the state CalWORKs program.

.12 Eligibility for TCVAP Cash Aid (cross-reference Section 69-205)

.121 Neither time-eligibility nor refugee status criteria in TCVAP cases.

.122 Eligibility for TCVAP cash aid is limited to the number of months required in Section 69-202.41 following the date of application.

.123 TCVAP trafficking recipients are permitted one year to apply for a T Visa, and are limited to a maximum of 8 months of TCVAP cash aid during this period.

(a) If 8 months of TCVAP is paid prior to the year elapsing and TCVAP cash aid is discontinued, services for which recipients are eligible may continue until the twelve-month period elapses.

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70-105 TCVAP BENEFITS AND SERVICES (Continued)

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- (b) If the TCVAP recipient files an application for a T Visa during this year, there is still an 8 month maximum limit on TCVAP cash aid, but services for which they are eligible continue.
- (c) If the recipient does not file an application for a T Visa within one year of the date of application, the case shall be discontinued.
- (d) If ORR certification is obtained, the case is converted to RCA, pursuant to Section 70-105.13.
- (e) If the request for a T Visa is finally administratively denied, as defined in Section 70-103.511, the case is discontinued.

.124 TCVAP crime victim recipients must have filed a request for a U Visa in order to be eligible for TCVAP benefits and services. Once eligible, they are limited to a maximum of 8 months of TCVAP cash aid and continuing services for which they are eligible.

- (a) If/when the U Visa request is finally administratively denied, as defined in Section 70-103.511, the TCVAP case shall be discontinued.

.13 Conversion to RCA

When a TCVAP trafficking recipient obtains ORR certification, a determination shall be made of RCA eligibility (see Section 69-205). If all eligibility factors for RCA are met, the TCVAP case shall be discontinued and a new eligibility period for RCA shall be granted pursuant to Section 69-202.411, for the maximum period allowable under that section.

.14 Employment/Training Requirements and Exemptions (cross-reference Section 69-207)

.141 Compliance with certain Registration, Employment and Employment-Directed Education/Training Requirements shall not be required if the recipient does not have work authorization from USCIS.

- (a) TCVAP recipients might not possess a social security number or be authorized to work. Employment-directed education and training must be appropriate to the situation, therefore, if a recipient is technically or legally unable to participate s/he cannot be required to do so. If a recipient is unable to work or participate in a CWD approved employment-directed program due to lack of work authorization, s/he would not be required to participate in job search activities, or be referred to the Employment Development Department. Activities should be identified that will assist the recipient to prepare for future employment, such as English language training, job skills development, job- specific training, etc.

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70-105 TCVAP BENEFITS AND SERVICES (Continued)

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.142 In addition to the exemptions from appropriate applicable work registration, employment and training requirements found at Section 69-207.3, an exemption shall be available to TCVAP recipients if physical or psychological trauma related to or arising from the victimization impedes their ability to comply, when verified by a physician's written statement that the illness or injury is serious enough to temporarily prevent his/her entry into an appropriate education/training program.

.15 Case Records (cross-reference Section 69-216)

A TCVAP applicant/recipient might not possess a passport, Alien Registration number, or any USCIS documentation. The case record shall include the following information in addition to that required by CalWORKs program regulations:

.151 Documentation gathered to verify trafficking status, as described in Section 70-102.2.

.152 The applicant's sworn statement.

(a) The county's written determination of the applicant's credibility if the sworn statement is the only evidence available.

.153 Documentation gathered for verifying that the applicant has filed or intends to file for a T Visa (see Sections 70-103.1 through .4).

.154 Documentation gathered for verifying that the applicant has filed for a U Visa (see Section 70-104.1).

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006). Reference: Sections 13283 and 18945, Welfare and Institutions Code.