



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

Transmittal:	04-ADM-08
To:	Local District Commissioners
Issuing Division/Office:	Division of Temporary Assistance
Date:	December 21, 2004
Subject:	Expansion of Eligibility of Alien Victims of Severe Forms of Trafficking in Persons
Suggested Distribution:	Temporary Assistance Directors Food Stamp Directors TOP Coordinators Staff Development Coordinators
Contact Person(s):	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
Attachments:	LDSS-4579 (Rev. 12/04): Alien Eligibility Desk Aid
Attachment Available On – Line:	<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.

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