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Administrative Directive

Transmittal:	04-ADM-04
To:	Local District Commissioners
Issuing Division/Office:	Bureau of Refugee and Immigration Affairs (BRIA)
Date:	June 15, 2004
Subject:	Refugee Cash and Medical Assistance Programs (RCA & RMA)
Suggested Distribution:	Income Maintenance Directors Employment Coordinators WMS Coordinators Food Stamps Directors Medical Assistance Directors
Contact Person(s):	For RCA, Wanda Byrd, Bureau of Refugee & Immigration Affairs, (518) 402-3028 For RMA, Medicaid Local District Liason Upstate: (518) 474-9130 New York City (212) 268-6855
Attachments:	Refugee Provider List (available on-line)
Attachment Available On – Line:	☒

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
96 ADM-07 03 ADM-01 97-ADM-20 97-ADM-21 97-ADM-23	96 ADM-07	Part 349, 350, 351, 352, 355, 356, 357, 358, 359, 369, 370, 372, 373, 381, subpart 373-1.1-1.8, 373-2, subpart 360-4, 373-2.1-2.6, 385, 415.	Welfare Reform Act of 1997 SSL 20; 34; 65; 117; 131; 131-a; 157; 158; 349; 350	83 MB-20 (203 CFR Part 400	Fiscal Reference Manual, Volume 2, Chapter 3

I. Purpose

The purpose of this Administrative Directive is to inform local social services districts of changes to the federally funded Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) programs.

II. Background

The Federal Office of Refugee Resettlement (ORR) within the Department of Health and Human Services established the RCA and RMA programs in order to assure the availability of short-term cash and medical assistance to new refugee arrivals. At the time of program initiation, many states did not have benefit programs for singles or childless couples, so the RCA and RMA programs were necessary for new arrivals to receive benefits. In New York State, the federal RCA funds were used to reimburse the state for benefit costs under the Home Relief program, which has since been replaced by the Safety Net Program.

In 1996, as set forth in Department Regulations 18 New York State Code of Rules and Regulations (NYSCRR) Part 373, New York State implemented the Refugee Cash Assistance Program and the Refugee Medical Assistance Program for singles and childless couples that are refugees or are in another specified immigration status.

In March 2000, new Federal regulations amended the provisions of the RCA and RMA programs.

In October 2000, the Victims of Trafficking and Violence Protection Act (Public Law 106-386, Division A, 114 Stat. 1464) were enacted to combat trafficking through increased law enforcement. This law, otherwise known as "the Trafficking Victims Protection Act (TVPA), makes adult victims of severe forms of trafficking, who have been certified by the U.S. Department of Health and Human Services (HHS), eligible for benefits and services to the same extent as refugees. Victims of severe forms of trafficking who are under 18 years of age are also eligible for benefits to the same extent as refugees but do not need to be certified. Instead, they are provided with a letter of eligibility.

The Federal Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services (HHS) has been designated as the sole body with the authority to certify.

In August 2002, 18 NYSCRR Part 373 was amended to incorporate several changes in the Federal regulations at 45 CFR Part 400.

III. Program Changes

As a result of the above events, the following program changes have occurred:

- There are different start dates for an individual's eligibility period for the RCA/RMA programs and they are as follows:
  1. The RCA/RMA eligibility period remains eight months from the <u>date of arrival</u> into the United States for refugees, entrants and certain Amerasian immigrants.

2. For asylees, the eligibility period will now be eight-months from the date that asylum status is granted. Previously, asylees were eligible only for the eight-month period following the date of arrival into the United States.
3. Trafficking victims will now be eligible for RCA/RMA benefits for 8 months from the date indicated in the certification or eligibility letter issued by ORR.

Immigration Status	Date of Eligibility
Refugee	The date of entry
Certain Amerasian Immigrants	The date of entry
Cuban/Haitian Entrants	The date of entry
Certified/Eligible Victims of Trafficking	The date of certification for adults; date of eligibility for children
Asylee	The date asylum status is granted

Other changes also include:

- Refugees, asylees, entrants, trafficking victims and certain Amerasian immigrants, who are in receipt of federally participating Medicaid and become ineligible during the RMA eight-month eligibility period due to employment earnings, may automatically transfer to RMA for the remainder of the eight-month RMA eligibility period.
- Cash grants received by RCA/RMA applicants from the U.S. Department of State or Department of Justice during the initial 30-day Reception and Placement Program are not to be considered in the determination of income and resources.
- Family Assistance (FA) & Safety Net (SN) work requirements do not apply to RCA applicants or recipients. Recipients of RCA must comply with RCA work requirements, which are found later in this document.
- Trafficking Victims who have a certification letter or eligibility letter issued by ORR are eligible for the same benefits as a refugee.

IV. Program Implications

The social services district shall direct eligible refugees, asylee, entrants, certain Amerasians and trafficking victims who apply for cash assistance to one of the following cash assistance programs: Family Assistance (FA), Safety Net Assistance (SNA), Social Security Income (SSI), or Refugee Cash Assistance (RCA). This directive addresses only RCA and RMA. The other cash assistance programs administered by the Office of Temporary Disability Assistance (OTDA) are addressed separately in other directives. (See list of cash assistance directives under filing references).

V. Definitions

For the purpose of this directive, the following definitions apply:

1. "Appropriate agency" or "Authorized Service Provider" means an agency that has entered into a contract with OTDA to provide employment services to recipients of RCA. Services must be provided in a linguistically and culturally appropriate manner, which are specifically designed to assist refugees in becoming employed, as specified under this directive. (See the OTDA website for a statewide list of service providers for employment services: http://www.otda.state.ny.us/bria.)
2. "Asylee" is an individual who has been granted asylum status under Section 208 of the Immigration and Nationality Act.
3. "Bureau of Refugee and Immigration Affairs" (BRIA) is an OTDA office whose mission is to direct resources to local agencies that assist recent arrivals and their families in achieving early economic and social self-sufficiency, to aid other legal immigrants in their transition to life in the U.S., to help repatriated citizens arrive safely at home, and to assure the foster care of unaccompanied refugee minors.
4. "Certain Amerasian Immigrants" are Amerasians from Vietnam who are admitted to the U.S. as immigrants under Section 402(a) 2 (A) (I) (V) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612 (a) 2 (A).
5. "Cuban/Haitian Entrant" or "Entrant" is any individual granted parole status as a Cuban/Haitian Entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of status of the individual at the time assistance or services are provided; and any other national of Cuba or Haiti who:
    a. Was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act.
    b. Is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act.
    c. Has an application for asylum pending with the United States Citizenship and Immigration Services (USCIS); and with respect to whom a final,

non-appealable, and legally enforceable order of deportation or exclusion has not been entered.

6. "Employability Plan" means an individualized written plan, as part of the family self-sufficiency plan for an eligible person registered for employment services, which is intended to result in the earliest possible employment. The employability plan must include specific content found in the New York State Department of Labor Regulations Section 1300.7-3. Note that employability plans are prepared by the appropriate agency referenced in definition.

7. “Employability Services” are services designed to enable an individual to obtain employment and to improve the employability or work skills of the individual.

8. “Family Self-Sufficiency Plan” is a plan that addresses the employment-related service needs of an employable person(s) for the purpose of enabling the household to become self-supporting through employment of one or more household members.

9. “Local resettlement agency or local voluntary agency” is a local affiliate of a national voluntary agency that has entered into a grant, contract, or cooperative agreement with the United States Department of State or other appropriate federal agency to provide for the reception and initial placement of refugees in the United States.

10. “Match Grant” is a Federal program whose goal is to help employable refugees, Amerasians, Cuban and Haitian entrants, asylees, and certified victims of trafficking attain economic self-sufficiency within four months after date of eligibility for the program without accessing public assistance. Match Grant is a direct agreement between the Federal Government and the local resettlement agency.

11. “National Voluntary Agency” (VOLAG) means one of the national resettlement agencies that has entered into a grant, contract or cooperative agreement with the United States Department of State or other appropriate federal agency to provide for the reception and initial placement of refugees in the United States.

12. “Office” refers to the Office of Temporary and Disability Assistance (OTDA).

13. “Refugee” means an individual who meets the definition of a refugee under Section 101(a)(42) of the Immigration Reform and Control Act of 1986, Public Law 99-603, as amended.

14. “Refugee Cash Assistance” (RCA) means cash assistance provided under Section 412(e) of the Act to eligible persons who are ineligible for TANF or SSI.

15. “Refugee Medical Assistance” (RMA) means medical assistance provided under Section 412(e) of the Act to eligible persons who are ineligible for the Medicaid program.

16. "Refugee Social Service provider" means a public or private community agency that has entered into a contract with the office to provide employment and support services to refugees and entrants.

17. "Registrant" means an individual who has registered for employment services under Section VII, Subdivision I, and Paragraph 1 of this directive.

18. “Trafficking Victim” is a person who meets the definition of severe forms of trafficking in persons under Section 103(8) of the Trafficking Victims Protection Act and has been certified (adults) or determined eligible (children under age 18) by the ORR.

    Severe forms of trafficking in persons is defined by the Act as any of the following activities:

    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.

19. “Support services” means services provided or contracted for by an appropriate agency which are designed to meet needs of Refugees, Asylees, Entrants, Trafficking Victims and Certain Amerasian Immigrants for which funding is available under Title IV of the Social Services Act. Types of services include: translation and interpreter service, outreach, social adjustment, transportation, health services, daycare, ESL, etc.

20. “United States Citizenship & Immigration Services (USCIS)” is responsible for the administration of immigration and naturalization adjudication functions and establishing immigration services policies and priorities.

Note: From here forward, the term “refugee” will refer to the following groups: Refugees, Asylees, Entrants, Trafficking Victims and Certain Amerasian Immigrants, except where specific exceptions apply.

VI. Program Coordination

A. Goal of Refugee Services

The goal of services to refugees is to provide for the effective resettlement of these populations and to assist them in achieving economic self-sufficiency as quickly as possible.

B. Types of Refugee Service Programs

1. Reception and Placement Services

The Voluntary Local Resettlement Agencies (VOLAGS), under agreement with the U.S. Department of State, provide Reception and Placement Services to newly arriving refugees, including basic needs support, employment orientation, and referrals. Refugees, Entrants and Certain Amerasian Immigrants are eligible for services during the first

30 days after entry into the United States. Asylees are eligible during the first 30 days after asylum status has been granted. Trafficking victims are eligible during the first 30 days after the certification date.

2. Match Grant Services

Certain local voluntary agencies also have a Match Grant Program under direct agreement with the ORR in which employable clients receive a cash grant and employment services for 120 days. Each population type becomes eligible for benefits at certain times. Refugees and entrants are eligible for 120 days after arrival into the United States as long as they present themselves to the agency prior to day 31 after arrival. Trafficking victims are eligible during the first 120 days after the certification date, as long as they present themselves prior to day 31 after the certification or eligibility date. Asylees are eligible during the first 120 days after asylum has been granted as long as they present themselves prior to day 31 after asylum status has been granted.

3. Refugee Employment Services

The office provides employment and support services through contracts with public and private community agencies to assist refugees in finding jobs and in achieving economic self-sufficiency as quickly as possible.

VII. Required Actions

A. General Requirements

1. Safeguarding and Sharing of Information

a. The social service district must ensure that no information about, or obtained from, an individual and in possession of any agency providing assistance or services to such individual under this directive, will be disclosed in a form identifiable with the individual without the individual's consent, or if the individual is a minor, the consent of his or her parent or guardian pursuant to Section 136 of the Social Service Law.

b. The provision of information by a social service district to a local resettlement agency as to whether an individual has applied for, or is receiving cash/medical assistance and the individual's telephone number is to be for a purpose directly connected with, and necessary to, the administration of the program during the refugee cash assistance period.

2. Maintenance of Records and Reports

a. The social service district must provide for the maintenance of records as are necessary for federal monitoring of the RCA and RMA Programs.

b. Record keeping must include:

i) Documentation of services and assistance provided, including identification of individuals receiving services and or assistance.

ii) Statistical or programmatic information that the State Office of Temporary and Disability Assistance (OTDA) determines to be required.

iii) Documentation that verifies individual's eligibility for Refugee Cash and Medical Assistance benefits.

c. Local districts must submit reports on receipt of assistance and expenditures each quarter to OTDA as described in Section IX.

B. Application for Refugee Cash and Refugee Medical Assistance

To effectively and efficiently assist refugees to achieve economic self-sufficiency, the social services district is required to properly determine benefit eligibility.

The social services district must do the following in determining eligibility for RCA and/or RMA:

1. Offer the opportunity for refugees to apply for assistance without delay.

   a. The application for RCA and RMA shall be submitted on the OTDA's form LDSS/2921 or NYC: APPLICATION FOR: Public Assistance - Medical Assistance - Food Stamps - Services (see Section IX), and include all required and necessary information requested in the form.

   b. The application shall be filed by the applicant him/herself, his/her authorized representative, or someone acting responsibly for him/her, and be dated and signed by the applicant or the authorized representative.

2. Inform applicants about the eligibility requirements and the rights and responsibilities of applicants and recipients under the RCA program.

3. Determine the eligibility of each cash assistance applicant within 30 days from the date the application is filed.

4. Determine eligibility for federal cash assistance programs in the order described. If not eligible for FA, SSI or RCA then determine eligibility for SN.

5. Determine from the appropriate agency whether the applicant has refused to accept an offer of employment within 30 consecutive days immediately prior to the date of application, in accordance with Section VII, Subdivision I, and Paragraph 3, of this directive.

6. Provide notice to the applicant that assistance has been authorized, clearly indicating that it is for RCA and/or RMA, and that the RCA

and/or RMA are limited to the time eligibility period determined by ORR defined in Section VII, Subdivision H of this directive.

7. Promptly notify the local voluntary agency, which provided for the initial resettlement of a refugee, whenever the refugee applies for cash assistance.

C. Determination of Alien Status

1. The local DSS must establish that the applicant for cash assistance is in an eligible immigration status by reviewing documentation issued by the USCIS (formerly known as INS) or ORR. The local social service district should request from these individuals the appropriate common documentation that is described in the Alien Eligibility Desk Aid found in the Informational Letter: 03 INF 23.

   a. USCIS documentation for refugees, asylees and entrants will indicate the following statuses:

      - Paroled as a refugee or asylee under section 212 (d) (5) of the Immigration and Nationality Act, hereafter referred to as the Act (Note: this only pertains to Cuban-Haitian Entrants);
      - Admitted as a conditional entrant under section 203 (a) (7) of the Act;
      - Admitted as a refugee under section 207 of the Act;
      - Granted asylum under section 208 of the Act;
      - Admitted for permanent residence, provided that the individual previously held one of the eligible statuses described.
      - Any national of Cuba or Haiti granted parole status as a Cuban/Haitian Entrant (status pending) or granted any other special status subsequently established under the immigration law for nationals of Cuba or Haiti, regardless of the status provided; and
      - Any other national of Cuba or Haiti who:

        a) Was paroled into the U.S. and has not acquired any other status under the Act; or

        b) Is the subject of exclusion or deportation proceedings under the Act; or

        c) Has an application for asylum pending with the USCIS; and

        d) Has a final, non-appealable, and legally enforceable order of deportation or exclusion that has not been entered.

2. Certain Amerasian immigrants from Vietnam who are admitted to the U.S. as immigrants pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Section 101(e) of Public Law 100-202 and amended by the 9th provision under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, (Public Law 100-461 as amended);

   a. ORR documentation for trafficking victims, as described in Administrative Directive transmittal 03 ADM 1, will be the following:

      - Adult victims of trafficking must submit the original certification letter to the social service district (see 03 ADM 01 for sample eligibility letter). This letter is used in place of USCIS documents. The district will make a copy of this letter for the file and the original will be returned to the applicant.
      - A child under the age of 18, who has been determined eligible by ORR, will be issued an eligibility letter from ORR. The original eligibility letter must be submitted to the social service district. This letter is used in place of USCIS documents. The district will make a copy of this letter for the file and the original will be returned to the applicant.
      - The social service district should call the trafficking verification line at 1-866-401-5510 to confirm the validity of the certification/eligibility letter and to notify ORR of the benefits and services for which the individual has applied.

3. The social service district must:

   - Verify the entry date for refugees, entrants and certain Amerasians to the U.S.;
   - Verify the date that asylum status was granted for asylees;
   - Verify the certification or eligibility date for trafficking victims;

   as indicated on the USCIS or ORR documentation.

D. Determination of Eligibility under Other Programs

1. Family Assistance (FA)

   a. The social services district must determine a refugee's eligibility under the FA program first.

b. The social services district must provide cash assistance under the FA program to all refugees who apply for and are eligible under that program.

2. SSI

a. The social services district must promptly refer refugees who are 65 years of age or older, or who are blind or disabled, promptly to the Social Security Administration HHS, to apply for cash assistance under the SSI program.

*Note: SSI is limited to the first seven years of residence in the United States for diabled and elderly refugees. Unless they become U.S. citizens during this seven-year window, their SSI benefits will be terminated after seven years.

b. If the social services district determines that a refugee who is 65 years of age or older, or blind or disabled, is eligible for RCA, it must furnish such assistance until eligibility for cash assistance under the SSI program is determined, provided that the conditions of eligibility for RCA continue to be met.

3. RCA

If the social services district determines that the refugee is not eligible for cash assistance under the FA program or assistance under the SSI program, it must then determine eligibility for RCA in accordance with Subdivisions E through J of this directive, below

4. Emergency Cash Assistance

If the social services district determines that a refugee has an urgent need for cash assistance resulting from a sudden occurrence or set of circumstances demanding immediate attention, it should process the application for cash assistance as quickly as possible on an emergency basis, consistent with Federal and State laws and regulations. The process would be the same as the process for an applicant for Emergency Safety Net.

5. Safety Net

If the social service district determines that the refugee is not eligible for any of the federal programs listed above, the district will determine eligibility for Safety Net.

6. Medical Assistance

a. The social services district must determine eligibility under the Medical Assistance program first for refugees.

b. The social services district must provide medical assistance under the Medicaid program to all refugees.

c. If the social services district determines that the refugee is not eligible for medical assistance under the Medicaid program, it must then determine eligibility for RMA in accordance with Subdivisions E, paragraph 2 of this directive.

d. In cases where a refugee obtains private medical coverage, any payment of RMA for that individual must be reduced by the amount of the third party payment.

E. Conditions of Eligibility for RCA and RMA

1. RCA

Eligibility for RCA is limited to those refugees who:

a. Are ineligible for cash assistance under FA and SSI programs but meet the standard of assistance established under Part 352 of the Department Regulations;

b. Meet immigration status and identification requirements in Section VII, Subdivision C of this directive, above, or are the dependent children of and part of the same filing unit as individuals who meet the requirements in Subdivision C.

c. Provide the name of the resettlement agency, which resettled him/her, if appropriate.

d. Are not receiving Match Grant funds from a refugee resettlement agency.

e. Meet the requirements of employment services, job interviews, and employment, as set forth in Subdivision I of this directive; and

f. Are not full-time students in institutions of higher education, except where such enrollment is expected to be approved as part of an individualized employability plan.

2. RMA

a. Eligibility for RMA is limited to those refugees who:

- Are ineligible for medical assistance, but meet the financial eligibility standards for medical assistance under Subpart 360-4 of the Department Regulations;
- Meet immigration status and identification requirements set forth in Section VII Subdivision C of this directive, or are the dependent children of a parent or parents who meet the immigration status requirements;
- Have not been denied or terminated from RCA under Section VII Subdivision I of this directive;
- Provide the name of the resettlement agency which resettled him/her, if appropriate and

- Are not full-time students in institutions of higher education except where such enrollment is approved by the Department as part of an individual employability plan.

b. RMA is for applicants/recipients eligible for medical assistance under the single/childless couples group. A refugee may not be required to actually receive or apply for RCA as a condition of eligibility for RMA.

c. RMA is for recipients who become ineligible for RCA due to increased income/resources and but whose income/resources are below the State's medically needy levels.

If a refugee who is receiving RMA receives increased earnings from employment, the increased earnings do not affect his/her continued medical assistance eligibility. The refugee should continue to receive RMA until he/she reaches the end of his/her time-eligibility period.

Refugees whose earnings exceed the State's medically needy levels must be allowed to spend down to such level pursuant to Subpart 360-4 of the Department Regulations.

d. RMA is for refugees who may receive a comprehensive health screening without prior determination of their eligibility for RMA. For refugees, Cuban Haitian Entrants and certain Ameriasian immigrants, the screening must be done during the first 90 days from the date of entry. For Asylees, the screening must be done during the first 90 days after asylum status has been granted. For Certified Victims of Trafficking, the screening must be done during the first 90 days after the date of eligibility indicated in the ORR certification letter for adults or the eligibility letter for children.

F. Documentation of Financial Need.

In order to prove that the applicant and others in his/her household are eligible for assistance, districts will follow the same procedures for eligibility as used for family assistance and safety net.

G. Consideration of Income and Resources for RCA and RMA.

Eligibility for refugee cash and medical assistance is limited to those who meet the income eligibility standard established by the State.

Eligibility for RMA and RCA is based on the applicant's income and resources on the date of application. The local district may not use the practice of averaging income prospectively over the application's processing period.

The social services district may not consider the following as income and resources:

1. Any resources remaining in the applicant's country of origin.
2. A sponsor's income and resources solely because the person is serving as a sponsor.
3. Any cash grant received from the Department of State or Department of Justice Reception and Placement programs.

H. Time Limitation of Eligibility for RCA and RMA

1. ORR determines the time-eligibility period for RCA and RMA.
2. For refugees, entrants and certain Amerasian immigrants, RCA and RMA benefits are currently limited to the first eight months from the date of arrival to the U.S.
3. For asylees, RCA and RMA benefits are currently limited to the first eight months beginning with the date asylum status was granted.
4. For trafficking victims, RCA and RMA benefits are currently limited to the first eight months beginning with the date found within ORR's certification letter for adult victims of trafficking or letter of eligibility for a victim of trafficking under the age of 18.

I. Transition To Other Programs

When a local social service district determines that a refugee who is in receipt of RCA/RMA has reached the end of their time eligibility period, the district must reassess the client's eligibility for cash assistance. The reassessment is done by having the client recertify for other cash/medical assistance programs 30 days prior to the end of the time eligibility period of RCA/RMA. There should not be a break in benefits. If he/she is no longer eligible for cash, the cash assistance case must be closed and separate determination must be made for Medicaid. The refugee must be notified of discontinuance of the RCA case and the right to a fair hearing, as provided in Part 358 of Department regulations. If he/she is still eligible for cash assistance, the case must be reclassified and benefits continued under the correct category of assistance: FA, SN, or SSI.

J. Requirements for Employment Services

To effectively and efficiently assist refugees to achieve economic self-sufficiency, the social service district is required to refer refugees to the appropriate refugee social service provider in their area for employment services.

This subdivision sets forth requirements for applicants and recipients of RCA concerning registration for employment services, participation in social

services, and acceptance of appropriate employment. The employable refugee that is a recipient of or an applicant for cash assistance must comply with the requirements described below.

As previously stated, RCA recipients are exempt from SN and FA employment requirements.

1. Registration for Employment Services, Participation in Job Interviews, and Acceptance of Appropriate Offers of Employment

    a. As a condition of application for and receipt of RCA, the applicant or the recipient who is not exempt must, except for good cause, do the following:

        - Complete an application with an appropriate service provider within 30 days of receipt of aid;
        - Participate in any employment-related services program which provides: on the job training, employability assessment services, development of employment plan, skills re-certification, day care for children, transportation, translation and interpreter services, case management services, assistance in obtaining employment authorization documents, vocational training, or language training determined to be appropriate.
        - Carry out job searches determined to be appropriate for that refugee or entrant;
        - Go to job interviews arranged by the service provider; and
        - Accept at any time, from any source, an offer of employment determined to be appropriate by the service provider.

    b. The social services district must permit, but may not require, the voluntary registration for employment services of an applicant or recipient who is exempt under Paragraph 2 of this subdivision below.

2. Criteria for Exemption from Registration for Employment Services, Participation in Job Interviews, and Acceptance of Appropriate Offers of Employment

    a. The social services district must consider an applicant for or recipient of RCA to be employable unless the applicant or recipient is:

        - Under age 16;
        - Under the age of 18 and attending full-time a secondary school or equivalent level of vocational or technical

training and reasonably expected to complete the program before reaching age 19;

- Ill, when determined by the social services district on the basis of medical evidence or on another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training;
- Incapacitated, when determined by a physician or licensed or certified psychologist and verified by the social services district that a physical or mental impairment, by itself or in conjunction with age, prevents the individual from engaging in employment or training.
- 65 years of age or older;
- Caring for another member of the household which requires, as determined by a physician or a licensed or certified psychologist and verified by the social services district, care in the home on a substantially continuous basis, and no other appropriate member of the household is available;
- A parent or other caretaker relative of a child under age 3 who personally provides full time care of the child with only very brief and infrequent absences from the child. Only one parent or other relative may be exempt under this subparagraph.
- Pregnant, if it is has been medically verified that the child is expected to be born in the month in which registration would otherwise be required or within the next six months.

b. Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability services, and acceptance of appropriate offers of employment.

3. Effect of Quitting Employment or Failing or Refusing to Participate in Required Services

a. The social services district must advise the employable applicant as a condition of eligibility for RCA that he/she may not, without good cause, within 30 consecutive calendar days immediately prior to the application for assistance, have voluntarily quit employment or have refused to accept an offer of employment determined to be appropriate by the authorized service provider, using criteria set forth in paragraph 5 of this subdivision.

b. The social services district must advise the employable recipient as a condition of continued receipt of RCA that he/she may not,

without good cause, voluntarily quit employment or fail or refuse to meet the requirements of Paragraph 1 of this subdivision.

4. Development of an Employability Plan

   a. An individualized employability plan, as part of a family self-sufficiency plan, must be developed using Department Form DSS-3366 (see Section VI) or other form(s) approved by the Department, to assess the potential of the identified refugee and must describe a program of services intended to result in their earliest possible employment.

   b. The individualized employability plan must:

      - Be developed in a linguistically and culturally appropriate manner, preferably at an authorized service provider.
      - Be designed to lead to the earliest possible employment and not be structured in such a way as to discourage or delay employment or job seeking; and
      - Contain a definite employment goal, attainable in the shortest time period consistent with the employability of the refugee in relation to job openings in the area.

5. Criteria for Appropriate Employment Services and Employment.

   a. All service assignments must be within the scope of the individualized employability plan. The plan may be modified to reflect changed services or employment conditions;

   b. The services or employment must be related to the capability of the individual to perform the task on a regular basis. Any claim by the registrant of adverse effect on physical or mental health must be based on adequate testimony from a physician or a licensed or certified psychologist indicating that participation would impair the individual's physical or mental health;

   c. The total daily commuting time to and from home to the service or employment site must not normally exceed two hours, not including the transporting of a child to and from a childcare facility, unless a longer commuting distance or time is generally accepted in the community, in which case the round trip commuting time must not exceed the generally accepted community standards;

   d. When child care is required, the care must meet the standards set forth in Part 415 of Department Regulations;

   e. The service or work site to which the recipient is assigned must not be in violation of applicable Federal, State, or local health and safety standards;

f. Assignments must be made which are not discriminatory in terms of age, sex, race, creed, color, or national origin;

g. Appropriate work may be temporary, permanent, full-time, part-time, or seasonal if such work meets the other standards of this subparagraph;

h. The wage must meet or exceed the Federal or State minimum wage law, whichever is applicable, or if such laws are not applicable, the wage shall not be substantially less favorable than the wage normally paid for similar work in that labor market;

i. The daily hours and the weekly hours of work must not exceed those customary to the occupation; and

j. No individual may be required to accept employment if:

- The position offered is vacant due to a strike, lockout, or other bona fide labor dispute; or
- The individual would be required to work for an employer contrary to the conditions of his or her existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which he or she has membership may be deemed appropriate; and
- The quality of training if offered must meet local employers' requirements so that the recipient will be in a competitive position within the local labor market. The training also must be likely to lead to employment that will meet the appropriate work criteria.

6. Failure or Refusal to Carry out Job Interviews or to Accept Employment Services or Employment by mandated registrant.

a. Termination or Reduction of Assistance.

When, without good cause, a mandated registrant for RCA who is not exempt from registration under Paragraph 2 above (Criteria for Exemption), has failed or refused to meet the requirements of Paragraph 1 of this subdivision or has voluntarily quit a job, the authorized service provider must notify the appropriate social services district for action as follows:

- Conciliation
  a social services district official must issue a Conciliation Notification, to each applicant or recipient of RCA who refuses or fails to comply with the employment requirements of this subdivision. Such notice must be issued as soon as possible, but no later than 10 days following the date of failure or refusal to participate, and advise the registrant of his/her refusal or failure to comply

and that he/she has 7 days to request conciliation with the district regarding any dispute related to such refusal or failure to comply.

If the registrant requests conciliation within 7 days, conciliation will be commenced promptly in accordance with Subdivision 373.7 of Department Regulations, and it will be the registrant's responsibility to provide reasons for such refusal or failure to comply. The social service district must follow the conciliation procedure described in Subdivision 373-1.9 of the Department Regulations.

b. Timely and Adequate Notice of Intent to Discontinue or Reduce Cash Assistance

In case of proposed action to discontinue, suspend, or reduce assistance after the conciliation effort, the social services district must give timely and adequate notice, using the Department form DSS- 4004: Notice of Intent to Change Public Assistance Grant and/or Food Stamp Benefits and/or Medical Assistance Coverage for Non-Compliance with Employment Related Requirements (see Section VI). This notice must be sent or provided to a recipient at least 10 days before the date upon which the action is to become effective.

The written notice must include:

- An explanation of the reason for the action and the consequences of such failure or refusal; and
- Notice of the registrant's right to a fair hearing under section 400.83 of the 45CFR and Part 358 of the Department’s regulations.

The written notice must be in English and a written translated notice, or a verbal translation of the notice, in accordance with the requirements in section 400.55 of the 45CFR, must be sent or provided to a refugee at least 10 days before the date upon which the action is to become effective.

c. Sanctions

If the sanctioned individual is the only member of the filing unit, the assistance shall be terminated. If the filing unit includes other members, the district must not take into account the sanctioned individual's needs in determining the filing unit's need for assistance.

The RCA sanction period differs from the FA and SN sanction periods. The sanction shall remain in effect for 3 payment months

(90 days) for the first such failure and six payment months (180 days) for any subsequent such failure or refusal.

VIII. Systems Implications

New York City:

Cases eligible to receive RCA must be opened with a Category of Safety Net (SN) and one of the following State/Federal Charge Codes: 30 (Asylees, Refugees, Trafficking Victims and Certain Amerasian Immigrants); 34 (Cuban Entrants); or 36 (Haitian Entrants). Entry of these codes also requires entry of the following information: Date of Entry/Immigration Status Change and Alien Number. Even though RCA's are exempt from regular Safety Net employment requirements, the districts will use the same employability codes that apply to cases with a category of Safety Net. Cases entitled to RCA are not subject to the 45- day waiting period that other Safety Net applicants are subject to. All benefits due during the first 45 days of eligibility must be issued via Single Issuances. At the end of the 45-day period, the worker can issue recurring benefits for the balance of the 8-month eligibility period. Workers must use an AFA code to be reminded to reassess eligibility near the end of the 8-month eligibility period for other cash/medical assistance benefits described in this directive.

The Rest of the State:

Districts outside of New York City must code eligible RCA recipients as SN cases (Case Type 16 or 17), enter an “R” in the special program code on WMS entry screen 1, and enter one of the following Federal Charge Codes: 30(Asylees, Refugees Trafficking Victims and Certain Amerasian Immigrants); 34(Cuban Entrants); or 36(Haitian Entrants). Entry of any of these codes also requires entry of the following information:

1) Citizenship Code;

2) Alien Number;

3) Date of Entry or date of asylum or date of eligibility for ORR letter;

4) National Origin Code; and

5) Resettlement Agency Code.

Although RCA recipients are exempt from regular employment requirements, the same employability codes used for Safety Net individuals will apply to RCA recipients. The Federal Charge Codes listed above require entry of certain Anticipated Future Action (AFA) Codes. Workers must enter an AFA Code of 351 (SN/FP-MA-8 Months)" and an associated date for the appropriate individual(s), reminding workers to reassess eligibility near the end of the 8 month eligibility period.

IX. Claiming

RCA and RMA programs are entitled to 100% federal reimbursement. Reimbursement for the Refugee Cash Assistance and Refugee Medical Assistance programs is obtained on the LDSS-1047 "RF-6 Monthly Claim for Reimbursement Assistance to Resettled Refugees." RF-6 claiming instructions appear in the Fiscal Reference Manual, Volume 2, Chapter 3.

Please forward claiming questions to the following contacts:

Bureau of Financial Services:

Regions I-IV: Patricia A. Humphrey at 1-800-343-8859 ext. 4-7549
E-mail: Patricia.Humphrey@dfa.state.ny.us

Region V: Michael Borenstein at (631) 854-9704
E-mail: Michael.Borenstein@dfa.state.ny.us

Region VI: Marian Borenstein at (212) 383-1735
E-mail: Marian.Borenstein@dfa.state.ny.us
Fax No: (212) 383-2539

X. Effective Date

This Administrative Directive is effective immediately.

Shari Noonan

Deputy Commissioner
Division of Transitional Support